

# Exhibit 3

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1 Case: CHMURA ECONOMICS & ANALYTICS LLC vs.  
RICHARD LOMBARDO

2 Date: May 6, 2020

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4 REPORTER'S NOTE:

5 Since this deposition is in rough draft form, please be  
6 aware that there may be a discrepancy  
7 regarding page and line number when comparing  
8 the rough draft, rough draft disk, and the final  
9 transcript.

10 Also, please be aware that the noncertified  
11 rough draft transcript may contain untranslated  
12 steno, reporter's notes, misspelled proper  
13 names, incorrect or missing Q/A symbols or  
14 punctuation, and/or nonsensical English word  
15 combinations, etc., such entries will be corrected on  
16 the final, certified transcript.

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1                   LESLIE PETERSON, having been previously  
2   sworn with the previous agreed upon stipulation  
3   regarding the need for this deposition to take place  
4   remotely because of the Government's order for social  
5   distancing, said as follows:

6   BY MS. COOPER:

7           Q.     Good morning, Ms. Peterson.

8           A.     Good morning.

9           Q.     I want to pick up I think where we left  
10   off, at least, there may be some duplication as we pick  
11   up where we were.

12           MS. COOPER: Are you guys having an okay  
13   time hearing me?

14           MS. SIEGMUND: Yes. I am going to turn you  
15   up at bit. Before you get started , Ms. Peterson has  
16   something she wants to correct from her deposition on  
17   Thursday that she wanted to correct.

18           A.     On the offer letter, I found an email  
19   {technical issue -- indiscernible } signed it.

20                   (Reporter asked for clarification).

21           A.     I found an email and I spoke with John  
22   Chmura, and he wrote the offer letter. I reviewed it  
23   and said it is good to go.

24           Q.     Did you sign the offer letter?

25           A.     It had my signature on it when I reviewed

1 it.

2 Q. I want to turn to -- back to Exhibit A,  
3 Defendant's Exhibit A. I will put that up on the  
4 screen.

5 Q. And turning your attention to -- well, let  
6 me sort of scroll through it for a second. This is the  
7 notice of deposition that we looked at last week, and  
8 as we discussed, you were designated as a corporate  
9 representative to testify about certain topics. I want  
10 to turn your attention to Topic Number 12, job duties  
11 of account manager and senior account manager between  
12 February 1, 2015 and October 31, 2019. You were  
13 designated as the corporate representative to testify  
14 on this topic, correct?

15 A. Yes, ma'am.

16 Q. Can you walk me through the job duties of  
17 an account manager during that time frame?

18 A. The job duties of an account manager was to  
19 prospect potential clients, to set up a demo of JobsEQ,  
20 our technology platform, to actually do the demo, to  
21 close within a reasonable time, to counsel/advise the  
22 client if there was funding issues. After closing the  
23 deal, to appropriately document himself or -- and  
24 through the accounting department for details of the  
25 license agreement, the regional territory of the

1 license, and the price and the terms of renewal.

2 To contact that client on a quarterly basis  
3 to ensure that that client was using the product, and  
4 and to determine if that client needed additional  
5 training or help in any way from Chmura, and send out a  
6 customer satisfaction survey 60 days prior to renewal  
7 to determine the satisfaction level of that client with  
8 the product and with Chmura, the sales team, and then  
9 to ensure that this client renewed.

10 Q. Were there any other job duties of an  
11 account manager that you can think of?

12 A. So this was a start up sales team and some  
13 of the things that we made decisions around were new.  
14 I suppose there was product, but to what -- there was a  
15 good deal of travel involved and outward public facing  
16 meetings. So we had to get a comfort level that the  
17 account managers could do that. And, generally, by the  
18 time they became a senior account manager, we had the  
19 confidence that they could manage all of that on their  
20 own.

21 Q. When you say manage all of that on their  
22 own, what are they managing on their own?

23 A. Manage the conferences that they wanted to  
24 attend, take care of their hotel and registration, to  
25 do that in a manner that was ethical and appropriate in

1 terms of how they used the company credit card to pay  
2 for travel and conferences, and have, traditionally,  
3 maturity and act in a manner that was appropriate and  
4 ethical. And we felt like --

5 Q. Did you not -- I'm sorry, go ahead.

6 A. No, that's fine. Go ahead.

7 Q. Did you not expect those same expectations  
8 out of an account manager?

9 A. After you become comfortable with the  
10 product and the culture of Chmura and you prove  
11 yourself to be an ethical person, you get more  
12 opportunities for independence and to manage more of  
13 the functions that operations doesn't have to manage  
14 for you.

15 Q. Can you give me some specific examples of  
16 things that a senior account manager would manage that  
17 an account manager did not manage?

18 A. Account manager went to the conferences  
19 that we selected. A senior account manager was able to  
20 advise us on which conferences they chose to attend  
21 because they had some senior knowledge and talent  
22 around those conferences so that we had the best return  
23 on investment possible.

24 Q. Other than choosing conferences, does a  
25 senior account manager have any different job duties

1     than that of an account manager?

2             A.     Senior account manager was more intimately  
3     involved in marketing. They were more involved in the  
4     innovation. They brought if more intelligence from the  
5     industry about what needed to be added to our internal  
6     roadmap because they had more knowledge about the  
7     industry and that's why they became a senior account  
8     manager over an account manager.

9             When an account manager comes in and they  
10    have never sold software, let's say they sold vacuum  
11    cleaners or they were in collections, but they had no  
12    experienced in software sales, then that person had to  
13    be inundated and immersed into the tech world. And  
14    that takes several months to take somebody that maybe  
15    takes -- maybe it's been six -- maybe it takes them six  
16    years to get a four-year degree, and maybe they moved  
17    from collections to sell vacuum cleaners, and to get  
18    them ready to be in the tech world, with economists,  
19    that's a very sophisticated industry, you are expected  
20    to be on point at all times. There is a point at which  
21    you -- being an account manager involves that, step up  
22    to that challenge and deliver.

23            Q.     How did the determination to move from --  
24    move a salesperson from the account management position  
25    to senior account management position be made?

1           A.       At the time that we are talking about,  
2       Mr. Lombardo, we did not have product managers, so  
3       Austen and Rick were our product advisers, and so we  
4       relied heavily on their insight into the clients'  
5       needs. You know, what keeps you up at night, what do  
6       you need? We relied heavily on that intelligence to be  
7       more strategic in how we prioritized the roadmap.

8           Q.       But just generally speaking, how would a  
9       salesperson move from the account manager position to a  
10      senior account manager position? How would that  
11      happen?

12          A.       I don't know what generally speaking means.

13          Q.       When a salesperson is moved from a -- how  
14      does Chmura decide when a salesperson was ready for the  
15      senior account manager title?

16          A.       Well, in Mr. Lombardo's situation, he asked  
17      for it and we talked about it, and we understood that  
18      he was ready to move to the next level, and so we all  
19      agreed -- it is a consensus based organization. We  
20      don't make decisions by one person. So we, senior  
21      leadership, decided that Rick was valuable to us in  
22      terms of adding -- I mean, there are 300 logs of him  
23      asking for GDP, 300 logs of that. So he was our  
24      product developer. In smaller innovations you have to  
25      understand we pair a lot of hats.

1           Q.     I understand that. I don't think you are  
2     answering my question, though, let me take a step back.  
3     Was there a written job description for account  
4     managers?

5           A.     There was not.

6           Q.     Was there a written description for senior  
7     account managers?

8           A.     There was not.

9           Q.     Were Mr. Steele and Mr. Lombardo the only  
10    two senior account managers during Mr. Lombardo's  
11    employment?

12          A.     Yes. To the best of my knowledge, that is  
13    true.

14          Q.     When did Mr. -- sorry, go ahead.

15          A.     No, they were A players. It was -- we  
16    depend on each one of them. The question that you are  
17    asking was May 17 of 2016?

18          Q.     Mr. Lombardo became a senior account  
19    manager on May 17, 2016?

20          A.     To the best of my ability to remember, that  
21    is the right month.

22          Q.     Who made the decision to give the promotion  
23    to senior account manager?

24          A.     The SEA Group.

25          Q.     I want to step back and walk through these

1 job duties with you. First, with respect to account  
2 manager, you said that one of the job duties was to  
3 prospect clients. Can you explain to me what that is  
4 or what that means?

5 A. That means that you do research to figure  
6 out who the person in the organization is that you need  
7 to reach out to; that is, so a user of technology that  
8 can get to the decision maker to adopt technology.  
9 That's what prospecting is. It is getting to the right  
10 person. Is that your question? Did I answer your  
11 question?

12 Q. Yes, you did. You did.

13 A. Okay.

14 Q. And then you said that the account manager  
15 was responsible for setting up demos and -- we will  
16 just stop at setting up demos. Can you explain that a  
17 little bit further?

18 A. Setting up demos? That means getting on  
19 the calendar, being prepared to do the demo in a  
20 customized manner that answers their pain point, what  
21 keeps you up at night.

22 Q. And then you said that an account manager  
23 was responsible for doing the demo. What did that  
24 mean?

25 A. So when you come in from, like, let's say

1 an industry that you have no knowledge of -- economics  
2 is a pretty sophisticated social science industry. And  
3 let's say you come from vacuum cleaners or horse  
4 medicine or whatever and you have no clue about the  
5 differences between a social science and a physical  
6 science, like TPHEUP biology, so you have to understand  
7 the laws of economics and underlying assumptions, so  
8 that's a daunting task for anyone that's never been  
9 exposed to understanding economics theory. Did I  
10 answer your question?

11 Q. I'm not sure. You mentioned one of the job  
12 duties of an account manager is to do the demo. Is it  
13 it --

14 A. You can't do a demo unless you understand  
15 the fundamentals of economics.

16 Q. I understand that, but what does doing a  
17 demo mean? If an account manager is doing that demo,  
18 what does that mean?

19 A. That means they are on a shared screen and  
20 they are going through analytics and our technology  
21 platform, which is JobsEQ, and they are doing it in a  
22 manner that answers that client's pain point.

23 Q. So the demo would be between the account  
24 manager and the prospective client; is that correct?

25 A. We expect that by our six months period.

1 In in the three months, one to three month period, we  
2 expect them to be demo ready internally, and then they  
3 can demonstrate between three months and six months  
4 when they are successfully doing a demo with a client  
5 on their own, they don't have to have an economist  
6 sitting there with them.

7 Q. Who are the economists at Chmura at the  
8 time Mr. Lombardo was employed?

9 A. I'm sorry. There's some kind of noise. Do  
10 you hear that? It's like a --

11 MS. SIEGMUND: Yeah.

12 {Technical issues}.

13 A. Can you repeat the question? I'm sorry,  
14 Christine.

15 Q. I may be moving on to another question, so  
16 for give me. When an account manager is doing a demo,  
17 it would be the account manager on their computer doing  
18 an demo to a potential customer on the potential  
19 customer's computer; is that correct?

20 A. Yes, it's like, Go-to-Meeting or Zoom or  
21 anything like that, like we are doing right now.

22 Q. And then you said that one of the  
23 expectations for na account manager was that they  
24 closed within a reasonable time. First of all, can you  
25 define "closed" for me, what you mean by that?

1 A. That you won a client.

2 Q. And what does Chmura consider a reasonable  
3 time?

4 A. Well, that is a great question. There are,  
5 you know, business to government clients. There are  
6 cycles of budgets and depending on when you get that  
7 demo completed within the budget process, it could be  
8 -- it could be nine months, it could be twelve months,  
9 it could be today. It varies.

10 Q. So there was no set time as to what Chmura  
11 considered a reasonable time to close after a demo;  
12 that fair?

13 A. It depended on the client and if they would  
14 be the G to B. B to B doesn't have those government  
15 imposed digitary profcease that B to B has. B to B  
16 does not have those barriers that B to G has. Let me  
17 be --

18 Q. So what was Chmura's expectations with what  
19 you say, B to G? Is that business to government?

20 A. Yes.

21 Q. What was the expectation with the business  
22 to government concerning prospects?

23 A. The expectation was that you understand the  
24 B to G business cycle; were they annual? Did they go  
25 January to December? Did they go July 1 to June 30th?

1 And in that understanding, you had to -- we asked that  
2 you get very specific in setting up demos in the  
3 budgetary planning process, which can be February to  
4 May.

5 Q. And what if --

6 A. If your fiscal year was January -- or July  
7 1 to June 30th.

8 Q. And B to B is business to business,  
9 correct.

10 A. It is.

11 Q. What was the expectation with respect to a  
12 reasonable time to close after a demo with business to  
13 business?

14 A. As soon as possible.

15 Q. What was the average close rate or close  
16 time between a demo and signing --

17 A. There --

18 MS. SIEGMUND: Wait.

19 Q. Let me finish my question. What was the  
20 average time between a business to business from a demo  
21 to closure, if you know?

22 A. I don't have that number.

23 Q. Were account managers, we had discussed  
24 that account managers were doing these demos from their  
25 computers. Were they -- at the time they were doing

1 the demos, were they located in -- I guess, in their  
2 office -- in a Chmura office when they were doing these  
3 demos?

4 A. Not always.

5 Q. Where else would they be if they were doing  
6 a demo?

7 A. They might be at a conference or they might  
8 be at the customer's location on site.

9 Q. How often would an account manager go to an  
10 on-site -- go to a client on site?

11 A. I don't have that number.

12 Q. You also mention one of the job duties of  
13 an account manager was to counsel a client. Can you  
14 explain that a little bit more?

15 A. As you get inside an organization and you  
16 are dealing with the data people that are reporting to  
17 their management, to a board, and they don't have a big  
18 picture of funding. So if you are counseling a client  
19 that's in workforce, for example, you need to  
20 understand the Workforce Investment and Opportunity Act  
21 in depth to be able to advise what the law allows in  
22 terms of funding for services.

23 And that is a visual -- they might not know  
24 that. They might not know that they can take JobsEQ  
25 and put it in something other than administrative

1 funds. For example program funds, where you have  
2 counselors that are seeing job seekers on a daily  
3 basis, and that's under the program funds and not in  
4 administrative funds. You need to be able to advise  
5 them, hey, you can do that and it is legal.

6 Q. So if --

7 A. Did you understand that? Did you  
8 understand that?

9 Q. I think I do, but I am asking some  
10 follow-up questions on it.

11 A. Okay.

12 Q. The Workforce Investment Opportunity Act,  
13 what is that?

14 A. That is a federal program under the  
15 Department of Labor where funds are sent to the state,  
16 each state, and it's based on need. It's something --  
17 some of it you are seeing right now with Covid. But the  
18 need is based, traditionally, on unemployment rates.

19 So each state has these funds that come  
20 down from the department of labor and they take the 10%  
21 to do the administrative piece at the state level. And  
22 the chief locally elected officials, called CLEOs, are  
23 responsible for the release of SKREGS AER funds at the  
24 local level. So you can imagine it gets pretty  
25 political pretty quickly at the local level. So you

1 have to know the law, and our folks know that. They  
2 get to be experts in WIOA pretty quickly.

3 Q. And how do they develop, or how do they  
4 become experts in that?

5 A. Well, I'm a subject matter expert. I ran a  
6 Workforce Investment for four years, so I am the go-to  
7 person at Chmura for that.

8 Q. But the account --

9 A. You learn a lot in conferences. They learn  
10 more at conferences.

11 Q. Would account managers be expected to  
12 advise prospective clients as to their legal rights  
13 under that workforce investment opportunity act?

14 MS. SIEGMUND: Object to the form of the  
15 question.

16 A. I don't think that that's what we are  
17 talking about. They provide insight into the law, but  
18 they do not legally counsel them.

19 Q. Can you describe to me the difference?

20 A. We don't act in a legal capacity with our  
21 client. We are advisers.

22 Q. What type of advice are you -- would an  
23 account manager give to a prospective client or clients  
24 regarding the workforce investment opportunity act?

25 A. As we discussed earlier, for the awareness

1 of budgetary cycles, an awareness of the barriers that  
2 go along with job seekers that are taking advantage of  
3 these funds, and it is being able to advise which  
4 funding stream that you can put a technology platform  
5 under, like JobsEQ, and it satisfies the requirement of  
6 the WIOA.

7 Q. And an account manager would be expected to  
8 understand the budgetary cycles and categories --  
9 categories spending that can be used to purchase JobsEQ  
10 is that fair?

11 A. That's up to them. If they want to be an A  
12 player, they will do that. If they want to be a B  
13 player, they won't.

14 Q. And then would na account manager  
15 communicate that to the prospective client or client?

16 A. Communicate what?

17 Q. Budgetary cycle or what they understood the  
18 budgetary cycle to be?

19 A. There are a lot of clients in WIOA that  
20 don't understand WIOA. It is unfortunate, with our  
21 taxpayer money, right? It is unfortunate, but it  
22 happens a lot.

23 Q. So the account manager then would walk them  
24 through that; is that fair?

25 A. Walk them through.

1           Q.     I think -- are you calling it WIOA? Is  
2     that how you're saying it?

3           A.     WIOA. That's the industry -- that's how  
4     the industry speak.

5           Q.     I want to speak like that, so I am going to  
6     use it. So I want to say it, too?

7           A.     It's WIOA.

8           Q.     WIOA. I got it. Would an account manager  
9     talk to a prospective client or a client about the  
10    budgetary cycle sets forth in WIOA?

11          A.     I mean, they -- like I said, if they want  
12    to be an A player, they will. If they are satisfied  
13    with the status quo, they might not. They might just  
14    do the same demo that they would do for an economic  
15    developer, or that they would do for a workforce  
16    client. It depends on the sophistication of that  
17    employee. There is no requirement there. Is that  
18    clear? I want to be clear. Is that clear?

19          Q.     It's clear to me, yes.

20          A.     Okay.

21          Q.     You also said the job requirements for  
22    account manager was to document in Salesforce. Was  
23    Salesforce the primary CRM platform that Chmura used?

24          A.     Yes.

25          Q.     And so was an account manager required to

1 put any communications that they had with the  
2 prospective client or client in Salesforce?

3 A. Yes.

4 Q. What other types of information was an  
5 account manager required to document in Salesforce?

6 A. I don't understand the question.

7 Q. Was all information pertaining to -- well,  
8 let me go back. How did an account manager use  
9 Salesforce?

10 A. So they documented phone calls, emails,  
11 opportunity status, the details of the region. The  
12 status was where they are enclosing any information  
13 that is needed to understand the life cycle of that  
14 client.

15 Q. And then another one of the job  
16 requirements you mentioned was to -- an account manager  
17 was to ensure that the client is using the platform  
18 and --

19 A. Yeah, that's very important, yeah.

20 Q. And how would an account manager go about  
21 doing that?

22 A. Well, in today's environment, it is going  
23 to change, but the account managers have historically  
24 enjoyed the Friday morning usage report. That Friday  
25 morning usage report details the usage from all

1 clients. And each account manager has historically had  
2 access to that, and that's changing, but for today,  
3 that's the situation.

4 Q. But when Mr. Lombardo was employed, he  
5 would have had that Friday morning report?

6 A. Oh, yeah. Oh, yeah, he had access to  
7 all --

8 Q. What was the expectation for account  
9 manager once they got that information, or that usage  
10 report, what was the expectation that an account  
11 manager would do with that report?

12 A. If there is no useage and people are not  
13 using, you have got to get in there and figure out  
14 what's the problem; is it training, is it the wrong  
15 person on the platform; how can we get you to use  
16 JobsEQ? Because that's the secret to renewal. And if  
17 you don't have the right person using it, then you need  
18 to help them figure out who in their organization is  
19 the right person, and it is difficult when you've got a  
20 shop of three peopel.

21 You know, when you are a small innovation  
22 and you've got a shop of three people, you got to make  
23 technology a priority, and they often balance  
24 technology an d data with implementation programs. And  
25 that becomes so political. And so amorphous that it is

1 hard to be data driven in some of these environments  
2 that we are in.

3 Q. How would aand account manager, I think  
4 your word was, get in there, to ensure that the client  
5 was using it, or to -- let me rephrase that.

6 How would an account manager follow-up with  
7 a client regarding their usage?

8 A. They have the option to go by email and the  
9 phone. They are also --

10 Q. So --

11 A. They are also on track so they can monitor  
12 the questions that are coming in that reflect they  
13 don't have a certain level of knowledge or that they  
14 are super users and they don't need any help.

15 Q. You also mentioned that one of the job  
16 requirements was to obtain a customer satisfaction  
17 survey.

18 A. Yes.

19 Q. Can you explain what the customer  
20 satisfaction survey is?

21 A. It consist of about 15 questions to  
22 determine the characteristics of the user in terms of  
23 their knowledge of the platform and their satisfaction  
24 with the platform. It is also a very good way to get  
25 information for the roadmap, things that they would

1 like to see added. And so the account managers uses  
2 that to ensure that they care enough about that  
3 information for the company and for their client to be  
4 more strategic.

5 Q. And you mentioned another one of those type  
6 of job duties was episure client renewal. Can you  
7 explain that at bit?

8 A. You are coming up on 60 days before renewal  
9 and you have taken the steps laid out for you, quarter  
10 by quarter with touch points to there, so you have  
11 confidence that that client is going to renew and you  
12 are not surprised when they do not.

13 Q. How many touch point was am account manager  
14 expected to make throughout -- after closing a sale  
15 prior to renewal?

16 A. As we previously discussed, it is  
17 quarterly.

18 Q. You also mentioned that one of the job  
19 duties of an account manager was to travel. And I may  
20 not have gotten all of your answer down, but forgive  
21 me, where would an account manager travel to?

22 A. They would travel on-site to client to do  
23 demos and they would travel to conferences. And they  
24 would travel between the Cleveland office and the  
25 Richmond office. We had TPELD from it, and they would

1     come down for that, and it would be, you know, an  
2     immersive experience where we would get to see and hear  
3     from them, strategically, what their plans were for the  
4     next year in terms of how they were going to manage  
5     their -- not manage -- how they were going to manage  
6     getting their client and depends on the client. So it  
7     was very personal. And they got to share with us on a  
8     very detailed level what their plans were. This is  
9     their plans, not ours.

10           Q.     Within a year, take 2019 for example, how  
11     frequently did an account manager travel to an on-site  
12     client visit?

13           A.     So you're a couple steps removed with me on  
14     that. That was -- 2019 was largely stemming through an  
15     interim account -- on a interim sales manager to March,  
16     our interview with Eli in April. He got placed with  
17     Eli. So I know that we went from \$220,000 to \$150,000  
18     that year for company profitability reasons. So it  
19     varied. It varied on, you know, depending on our  
20     profit.

21           Q.     What's the 220 to 150,000 number? What  
22     number is that you are going giving me?

23           A.     That's an expenditure number that's on our  
24     books based on what we were willing to invest in  
25     travel, based on company profit. And nothing to do

1 with the account managers.

2 Q. I guess my question is, how many onsite  
3 visits did account manager's make last year?

4 A. I don't have those numbers, Christine. I  
5 just don't. You asked me that last week. I don't have  
6 those numbers.

7 Q. What about how many conferences the account  
8 managers attended last year?

9 A. Why are we focusing on 2019?

10 Q. I just trying to given you a time frame.

11 A. Well, I mean, let's talk about within the  
12 last five years. We went from attending 25 to 15. I  
13 mean, if the business cycle -- let me help you  
14 understand. Business cycles ebb and flow based upon  
15 profits and expenditures. We added 18 people last  
16 year. We did not have the cash flow to support 25  
17 conferences. So last year it was scaled back a bit.  
18 Does that answer your question?

19 Q. I think it does. So in 2019, the account  
20 managers attended approximately 15 conferences?

21 A. I don't know. I am giving you numbers that  
22 I can't support. I am just saying in the business  
23 cycle, things ebb and flow in terms of what you can  
24 spend on marketing and travel, and so 2019 was not one  
25 of our better years.

1           Q.     Okay. As you sit here today, is it fair to  
2 say you don't know the specific number of onsite visits  
3 the account managers made in 2019?

4           A.     No, I did not come prepared to discuss  
5 that.

6           Q.     And is it fair to say you don't know the  
7 specific number of conferences that the account  
8 managers attended in 2019?

9           A.     I am not prepared to give you a number.  
10 Sorry.

11          Q.     What about for 2015 through 2018? Do you  
12 have numbers for those years?

13          A.     I can give you investment numbers and I  
14 gave them to you, but I am happy to repeat them,  
15 which mean --

16          Q.     Investment numbers?

17          A.     Investment numbers? Expenditures numbers.

18          Q.     Okay.

19          A.     220,000 is the range to 150,000. The  
20 number of conferences, it changes every year because  
21 the account managers come back and they say, let's not  
22 do this one next year, or let's do this one next year.  
23 And they become advisers to management on what  
24 conferences we attend. Is that helpful? Does that  
25 explain it to you? I am trying to be precise.

1           Q.     You also mentioned that the account  
2 managers, one of the jobs duties is public facing  
3 meetings. Can you describe to me what that means?

4           A.     The public facing meeting?. Yeah, sure, I  
5 am happy to. So you are not in the office. You are at  
6 a conference or at a clients lotion, or ina boards room  
7 and you're speaking and representing Chmura. There are  
8 a lot of expectations around that in terms of  
9 professionalism.

10          Q.     And like with the conferences and the  
11 on-site visits, do you have a specific number of times  
12 you --

13          A.     I do not have any numbers. I do not have  
14 any numbers.

15          Q.     Again, wait for me to finish my question so  
16 the record is clear. Do you have a specific number for  
17 the amount of public facing meetings the account  
18 managers attended?

19          A.     Finished? I don't.

20          Q.     Are there any other duties as you sit here  
21 today you can think of for an account manager before I  
22 move onto senior account manager?

23          A.     As I told you last week, senior account  
24 manager has a certain level of tenure, knowledge and  
25 skills and talent; that if you came in from the vacuum

1 cleaners industry or collections industry, you would  
2 not have that on day one. It takes time to develop a  
3 senior account manager, and it takes respect and  
4 appreciation for what they do to support the company.  
5 So we are --

6 Q. Hold on. Let me pick that apart a little  
7 bit. Oh, go ahead.

8 A. No.

9 Q. Are the jobs -- are the actual job duties  
10 of an senior account manager any different than the job  
11 duties of an account manager, or are they just more  
12 senior and experienced than the account manager duties?

13 A. As we discussed, an entry level account  
14 manager is not going to understand the laws of  
15 economics, they are not going to understand the client.  
16 It takes a while to do that. And that translates into  
17 productivity, and that translates into closing deals.  
18 That translates into developing the character of that  
19 individual, and in the spirit of continuous  
20 improvement, that involves shaping that person's  
21 character, helping them shape their character. And in  
22 the situation of Mr. Lombardo, that was a particular  
23 challenge.

24 Q. But their day-to-day activities, what they  
25 did, their job duties was a senior account manager's

1 job duties, their actual duties that they did, were  
2 they the same as an account manager?

3 A. No. I would say that an account manager  
4 doesn't get the opportunity to have client facings that  
5 a senior account manager has. There is a reputation  
6 risk here.

7 Q. Okay. Were there any other differences  
8 between a senior account manager and an account  
9 manager?

10 A. There are a lot of difference s. It has to  
11 do with mainly ethics and trust, and those are hard  
12 things to measure and hard things to manage.

13 Q. Now we have gdone through the job duties of  
14 an account manager. We have gone through the job  
15 duties of senior account manager. When Mr. Lombardo  
16 was an account manager, the job duties we just  
17 discussed, were those Mr. Lombardo's job duties as an  
18 account manager?

19 A. Were those the what.

20 Q. The job duties. When Mr. Lombardo was an  
21 account manager at Chmura, were his job duties any  
22 different than the ones we just discussed for an  
23 account manager?

24 A. His productivity, efficiency, his  
25 knowledge and his skill sets were totally different. I

1 have been telling you over and over: Talent,  
2 knowledge, tenure.

3 Q. But when he was an account manager -- can  
4 you define for me what you consider a job duty? I  
5 think we are having a little disconnect. I want to  
6 understand what your understanding of job duty is.

7 A. Okay. Let me try to answer that in a  
8 manner that helps you. This is not a union. It is not  
9 a blue collar organizations. We don't sell vacuum  
10 cleaners.

11 This is a professional business services  
12 industry, and with that comes knowledge of the product,  
13 knowledge of the industry. And that can't happen on  
14 day one as an account manager. That takes time to  
15 develop.

16 Sorry. Is Mr. Lombardo in the room? I see  
17 you looking.

18 Q. He is in the room. He has been with us for  
19 all the depositions, yes.

20 A. Okay. Good. Thank you for letting me  
21 know.

22 Q. Were the job duties you described for an  
23 account manager any different than the job duties Mr.  
24 Lombardo was expected to perform when Mr. Lombardo had  
25 the title of account manager?

1           A.     I don't understand that question. Can you  
2     unpack it a different way?

3           Q.     Well, Mr. Lombardo, his title when he start  
4     with Chmura was account manager, correct?

5           A.     Yes.

6           Q.     And we just went through, and you listed  
7     for me a bunch of job duties that account managers had  
8     at Chmura, correct?

9           A.     Yes.

10          Q.     Were Mr. Lombardo's job duties as account  
11     manager when he held that title any different than the  
12     job duties you listed for me?

13          A.     As we've discussed, his job duties became  
14     more proficient. He was rewarded for that, highly  
15     compensated.

16          Q.     And was he rewarded by given a title,  
17     senior account manager?

18          A.     No, he was more immersed in the  
19     organizations and he became a vital adviser to the  
20     roadmap.

21          Q.     Why don't we talk about the roadmap for a  
22     seconds. What is the roadmap?

23                   THE WITNESS: I need a break.

24                   MS. SIEGMUND: Answer the question and then  
25     we can take a break.

1           A.       Okay. As you have had several  
2       conversations with Chmura, the roadmap is our plan for  
3       innovation for JobsEQ.

4                   MS. COOPER: Okay. We can take a break.  
5       How long would you like to take, five minutes, 10  
6       minutes? Okay.

7                               -   -   -   -   -  
8                               (Short recess taken)  
9                               -   -   -   -   -

10       BY MS. COOPER:

11           Q.       I think we left -- where we left off before  
12       the short break was starting describing what the  
13       roadmap was, and I think you described it as a map for  
14       innovation. Can you tell me what -- how -- what was  
15       consisted on the roadmap?

16           A.       Future analytics.

17           Q.       What does that mean?

18           A.       Future technology offering. Future  
19       benefits to clients.

20           Q.       Can you tell me the way that something  
21       would be put on the roadmap?

22           A.       There is multiple ways. Account managers  
23       are the primary advisers of the roadmap. There is also  
24       KHAFT, customer satisfaction surveys. Multiple ways.

25           Q.       Were there any standard operating

1 procedures regarding the roadmap?

2 A. Yes.

3 Q. Can you describe those?

4 A. No, I couldn't. I'm not the owner of the  
5 roadmap.

6 Q. Who is the owner of the roadmap?

7 A. Dave Tarrano.\*

8 Q. I'm sorry. Can you say that again?

9 A. Dave Tarrano.

10 Q. And is he an employee of Chmura?

11 A. Yes.

12 Q. When you say, owner of the roadmap, what do  
13 you mean by that?

14 A. He is responsible for the roadmap.

15 Q. How were items on the roadmap prioritized?

16 A. I wouldn't pretend to know. It's --

17 Q. Did you have any involvement in deciding  
18 what on the roadmap would be pursued?

19 A. Minimal.

20 Q. Can you describe what your involvement in  
21 the roadmap, if any, was?

22 A. I was kept abreast.

23 Q. With respect to Mr. Lombardo specifically,  
24 did his job duties differ from that of an account  
25 manager?

1           A.       I don't think I understand that question.  
2       He was an account manager.

3           Q.       With respect to a senior account manager, I  
4       believe you testified earlier that they had -- you  
5       testified they had more intimate knowledge -- sorry,  
6       more intimate involvement in marketing. Can you  
7       explain to me what you meant by that?

8           A.       They develop the marketing material.

9           Q.       And how would a senior market -- sorry, a  
10      senior account manager develop marketing material?

11          A.       They would write down their ideas and  
12      suggestions and it would get before the marketing  
13      division and be developed based on their needs.

14          Q.       So would the marketing -- can I say  
15      marketing team, is that fair? Is there a marketing  
16      team or marketing department?

17          A.       Yeah, sure.

18          Q.       Would the marketing team -- well, who is on  
19      the marketing team?

20          A.       Sometimes I think everybody is. Everybody  
21      thinks they are a marketer, right? But to answer your  
22      question, it would be Leslie, Avery Simmons, Jim Hayes.

23          Q.       Now, you said Leslie. Are you referring to  
24      yourself or another Leslie?

25          A.       There is only one at Chmura.

1           Q.     And you said that the senior account  
2 managers would write down their ideas and suggestions  
3 and provide them to the marketing team; is that right?

4           A.     Yes.

5           Q.     And then what would the marketing team do  
6 with those ideas?

7           A.     Massage, improve.

8           Q.     Can you give me an example of any kind of  
9 an idea that an account manager -- sorry -- senior  
10 account manager provided to the marketing team that was  
11 developed into marketing materials?

12          A.     Sure. Particularly in Mr. Lombardo's case,  
13 he needed vertical specific buyerses, so the marketing  
14 team went to work to develop ratchet \*card at his  
15 suggestions.

16          Q.     While

17          A.     So. Mr. Lombardo provided the suggestion  
18 and the marketing team developed the material; is that  
19 fair?

20          A.     Mr. Lombardo requested the marketing  
21 material speak to the vertical of the industry that he  
22 was attending a conference for.

23          Q.     Did the marketing team, were they required  
24 to produce that vertical specific flyer because Mr.  
25 Lombardo asked for it?

1           A.       We did everything we could to make Mr.  
2 Lombardo happy.

3           Q.       Was the marketing team required to take  
4 that suggestion and create the vertical flyer in that  
5 instance?

6           A.       There is no requirement.

7           Q.       You also mentions that senior account  
8 managers had responsibilities with respect to  
9 innovation. Can you explain that a little bit more?

10          A.       As I said earlier, that has to do with  
11 what's on the roadmap. Priority of what's on the  
12 roadmap.

13          Q.       Was there any other job duty of the senior  
14 account manager? Yes, there was, so let me come back  
15 to this before I move onto that question. You said  
16 that senior account managers had the job duty of  
17 managing conferences. Can you explain what you mean by  
18 managing conferences?

19          A.       So selecting conferences they wanted to  
20 attend, booking flights, and in Mr. Lombardo's case,  
21 booking everybody's flight, attending the conference,  
22 setting up the booth, being prepared to do demos, being  
23 prepared to get contacts, being prepared to follow-up  
24 on those contacts to prepare a list of the attendees  
25 that they had public facing with. Now, what -- it is

1 very critical that you follow-up on contacts within the  
2 week that you get back, otherwise those leads get  
3 stale.

4 Q. Did -- if a senior account manager asked to  
5 go a conference, was it automatically approved that  
6 they attend?

7 A. It depended on the budget.

8 Q. Was there ever at time that a senior  
9 account manager asked to go a conference and they were  
10 not permitted to attend?

11 A. I'm not prepared to say that because it  
12 changes every year depending on the budget.

13 Q. Who had the final say on what conference  
14 the account manager or senior account managers would  
15 attend?

16 A. It was pretty much the account managers.  
17 We tried to support them in every way we could.

18 Q. Were there meetings regarding conference  
19 planning for the year?

20 A. There -- as we grew, yes. Not initially,  
21 but we he evolved to that, yes.

22 Q. Who would be in those meetings?

23 A. That also changed annually. Different  
24 people.

25 Q. Take 2019, who was in the meeting for 2019?

1 A. Jim Hayes, Avery Simmons, myself.

2 Marketing. The conferences went under my budget.

3 Q. Was there anyone else in those meetings?

4 A. Account managers would be pulled in, of  
5 course. They were central to the whole planning.

6 Q. Were the account managers there when the  
7 decision whether to attend the conference was made?

8 A. So that's kind of hard to do when you have  
9 account managers doing demos and doing what their daily  
10 routine is in a distributed workforce such as we have  
11 at Chmura.

12 Q. So the answer is no?

13 A. At times they were, at times they weren't.

14 Q. When Mr. Lombardo was a senior account  
15 manager, were his duties any different than the ones we  
16 just discussed?

17 A. I don't know what you mean by, what we just  
18 discussed.

19 Q. Well, you listed involvement in marketing,  
20 innovation and conferences. Were his job duties, in  
21 addition to the account manager job duties, were Mr.  
22 Lombardo's senior account manager job duties any  
23 different than the ones we just discussed?

24 A. No.

25 Q. Did Chmura have an outside sales team?

1 A. No.

2 Q. One follow up question, did Mr. Lombardo  
3 have -- was there a written job description for Mr.  
4 Lombardo's position?

5 A. We addressed that. Yes.

6 Q. Was Mr. Lombardo ever provided a written  
7 job description?

8 A. I don't know. He didn't report to me at  
9 that time.

10 Q. Do you know when a written description was  
11 created by Chmura?

12 A. It was created to recruit other account  
13 managers. I don't know when .

14 Q. Bear with me for one second.

15 All right. I want to switch topics. I am  
16 going to show you again, and share my screen and show  
17 you what's been marked as exhibit A again. And you  
18 have been designated as the witness, the corporate  
19 representative to testify as to Topic Number 16,  
20 "Jennifer Ludvik's compensation, or denial of  
21 compensation, for over time hours worked"; is that  
22 correct?

23 A. Yes.

24 Q. Who was Jennifer Ludvik?

25 A. She is an individual that was in the

1 Richmond area that was an employee of Slait, recruiting  
2 services.

3 Q. What was her role at Chmura?

4 A. So the model for this situation was -- it  
5 is kind of like test driving a car. So Slait's model  
6 is that this employee remains an employee of Slait  
7 until the client, which is Chmura, chooses to employ or  
8 not employ that Slait employee.

9 Q. So she was -- well, let me ask this, what  
10 job function was she doing at Chmura? I understand she  
11 wasn't an employee of Chmura, but what job function was  
12 she doing?

13 A. We were testing her out to be an account  
14 manager.

15 Q. And were her job duties those of account  
16 manager that we discussed --

17 A. Yes.

18 Q. -- not long ago?

19 A. Yes.

20 Q. And can you say again who she was employed  
21 by, or spell it for me so I know for sure what you are  
22 saying?

23 A. S L A I T.

24 Q. Okay. Got it. Did Ms. Ludvik ever make a  
25 claim that she should be paid for more than 40 hours a

1 week?

2 A. Yes.

3 Q. How was that handled?

4 A. She was not an employee of Chmura. She had  
5 been there, maybe, a week and had limited knowledge of  
6 JobsEQ, and not only that, but the paperwork was not  
7 accurate. She was billed to us -- she was  
8 contractually a salary exempt employee, but when we got  
9 the bill, it had overtime hours on it that we did not  
10 approve or understand why she needed overtime in this  
11 early tenure.

12 And so we confronted Slait, and they  
13 acknowledged that they made a mistake and they paid her  
14 overtime. And we decided we didn't want to work with  
15 her because she was not transparent. Just a short  
16 tenure.

17 Q. How short?

18 A. Real short. Like three weeks.

19 Q. Did you have -- or Chmura have any  
20 discussions with Slait regarding her status as exempt  
21 or non-exempt?

22 A. No.

23 Q. And I think you already answered this, so I  
24 am going to ask it just to be clear. Did Chmura pay  
25 for the hours above 40?

1 A. No.

2 Q. I think you said Slait paid for the hours  
3 above 40; is that correct?

4 A. Yes.

5 Q. At the time that was going on, did Chmura  
6 ever consider reclassifying the account managers from  
7 exempt to non-exempt, its own employees?

8 A. No.

9 Q. Okay. Taking you to a new topic, I am  
10 going to show you, share my screen again. You have  
11 been designated as a corporate representative to  
12 testify as to "Mr. Lombardo's performance, including  
13 sales performance, and the methods used to track  
14 Mr. Lombardo's performance"; is that correct?

15 A. Yes.

16 Q. As stated on here on Exhibit A.

17 How was Mr. Lombardo's sales performance  
18 during his tenure at Chmura?

19 A. Outstanding.

20 Q. Was he the top sales performer?

21 A. Yes.

22 Q. Do you know, over his tenure, what percent  
23 of new sales Mr. Lombardo was responsible for  
24 generating?

25 A. Consistently above quota.

1 Q. Do you have a more exact figure?

2 A. I do not.

3 Q. How were his -- let me ask, do you know  
4 what Mr. Lombardo's closing percentage was from, if he  
5 gave a demo to closing the deal?

6 A. The average close -- demo to close ratio,  
7 is 24.1, 25%.

8 Q. Was Mr. Lombardo higher than that?

9 A. It is an average number that we collect for  
10 the team.

11 Q. Did you ever evaluat, or did Chmura ever  
12 evaluate the individual account manager's, or senior  
13 account manager's percentage as to their close rate?

14 A. Not individually. We operated as a team.

15 Q. How about renewal rates? How did Mr.  
16 lombardo perform with respect to renewal rates?

17 A. 89%.

18 Q. Did you say 89?

19 A. I did.

20 Q. Do you know what the average renewal rate  
21 percentage was?

22 A. 85.

23 Q. How did Chmura track the sales performance  
24 of its account managers and senior account managers?

25 A. Based on quota. Three sales per month.

1           Q.     Do you know how much revenue Mr.  
2     Lombardo's, take for 2019 -- or a whole year, because  
3     he was there for 2018, do you know how much of the  
4     revenue for the sale of JobsEQ Mr. Lombardo was --  
5     could be attributed to Mr. Lombardo?

6           A.     I don't want to say a number. I can give you  
7     a percentage. I think it was 49%.

8           Q.     Do you know for 2019?

9           A.     No. He wasn't there the entire year.

10          Q.     What other metric was Mr. Lombardo reviewed  
11     on?

12          A.     I would say Mr. Lombardo's weakest area was  
13     in the customer satisfaction survey.

14          Q.     And can you give me some examples or an  
15     explanation?

16          A.     He didn't like to do them, so he often did  
17     not do them.

18          Q.     To complete a customer satisfaction survey,  
19     what does an account manager, or senior account manager  
20     have to do?

21          A.     Get the survey completed.

22          Q.     What was the process, or what -- how would  
23     an account manager go about doing that? I am just  
24     looking for how the process worked.

25          A.     Well, it's real simple. You send an email.

1           Q.     Did he obtain customer satisfaction  
2 surveys, any customer satisfaction surveys?

3           A.     A few. He mostly complained about them.

4           Q.     Were there any other metrics Chmura looked  
5 at in evaluating Mr. Lombardo?

6           A.     In the case of Mr. Lombardo, it was  
7 overwhelmingly dealing with the balance of an A player,  
8 and when you have an A player, you tolerate a lot.

9           Q.     I want to turn to Topic Number 21 on  
10 Exhibit A. You were designated as the corporate  
11 representative to testify with regards to "Warnings  
12 giving to or disciplinary action taken by Chmura  
13 against Mr. Lombardo"; is that correct?

14          A.     Yes.

15          Q.     Did, Chmura keep a written documentation of  
16 any warnings or disciplinary action given to Mr.  
17 Lombardo?

18          A.     Yes.

19          Q.     Can you describe what type of writing  
20 exists?

21          A.     Emails, handwritten notes, witnesses.

22          Q.     Well, the witnesses, were they witness  
23 statements?

24          A.     Witnesses that sat in on the conversations  
25 of a disciplinary manner.

1           Q.     But they didn't put anything in writing; is  
2     that correct?

3           A.     They -- no, they didn't need to do that.

4           Q.     And would all of the written materials be  
5     found in Mr. Lombardo's personnel file?

6           A.     They should be.

7           Q.     Can you walk me through what warnings  
8     Mr. Lombardo was given during his tenure at Chmura?

9           A.     There are so many. I mean, really? You  
10    want me to do this?

11          Q.     Well, were they all in his personnel file?

12          A.     No. You still talking about the personnel  
13    file?

14          Q.     Let's start there.

15          A.     Let's start with the personnel file? Is  
16    that what you said?

17          Q.     Yes, please.

18          A.     So Mr. Lombardo was notoriously known for  
19    his inability to submit a correct reimbursement form  
20    for travel. Mr. Lombardo was notorious for wanting to  
21    book everybody's flight on his credit card so that he  
22    got points. Plus, we had to put out policy that all  
23    employees had to use their employee credit card because  
24    the transactions cost was going out the roof with Mr.  
25    Lombardo's practices.

1                   So we had to adopt a policy of personal  
2     credit cards, and everybody had to book their own  
3     flights, their own hotel; however, Mr. Lombardo, as in  
4     most cases, ignored policy and did things his own way.  
5     So we had to document that. And Christine Steigmann  
6     was responsible for documenting that, and she was  
7     sloppy, so I'm not sure that it actually made it  
8     entirely into his personnel file, but I know there was  
9     documentation handed to her to do that.

10                  Mr. Lombardo went to the Texas Economic  
11     Development Conference in 2018, and the conference took  
12     place at the hotel, and there was a -- there was a  
13     charge to valet, a rental car, which was not needed,  
14     resulting in transaction costs, and we had to  
15     investigate, why did this happen? And Mr. Lombardo  
16     taking his time to respond. And at that same  
17     conference, there was alcohol bills that were not  
18     approved because it was not a dinner, it was in a bar.

19                  And the problem with that is if you are in  
20     a bar drinking at a conference, these bars are very  
21     open space, and clients and prospects can say why is he  
22     drinking with that client and not drinking with me. So  
23     there was a long discussion about that with Mr.  
24     Lombardo with Kyle West and Greg Chmura present. That  
25     went in his personnel file.

1 Do you want me to keep going?

2 Q. I would like you to list what you believe  
3 is in his personnel file, yes.

4 A. Okay. Then I won't go to the titty bar  
5 conversation he had with one of my clients.

6 There was the matter of the forged offer  
7 letter from GIS Web Tech that at one point Mr. Lombardo  
8 said there were two letters from GIS Web Tech, and I  
9 think in Mr. Lombardo's mind he meant the one that he  
10 forged and the original. Discussions around that, and  
11 the time that it took, and the transaction costs to get  
12 him to admit that he forged the letter was incredible.  
13 That is in his personnel file.

14 The amended offer letter to him to take out  
15 the merit increase clause was in his personnel file.  
16 His separation notice was in his personnel file.  
17 His --

18 Q. I am going to stop you.

19 A. Okay.

20 Q. With respect to the amended offer letter,  
21 did that have anything to do with a warning given to  
22 Mr. Lombardo?

23 A. Eli was his supervisor. I can't speak to  
24 that.

25 Q. Well, you were designated as the corporate

1 representative to speak on it, so to your knowledge was  
2 the amended offer letter in any way related to a  
3 warning given to Mr. Lombardo?

4 A. Yes.

5 Q. And what warning was that?

6 A. I t had to do with his employee agreement.  
7 He violated his employee agreement which you recall,  
8 the non-solicitation, non-compete, non-disclosure form.

9 Q. And that transpired into an amended offer  
10 letter, if I am understanding correctly?

11 A. Yes, it was Section 5 under net paragraph  
12 1. We talked about this last week, Christine.

13 Q. I am going to show you the amended offer  
14 letter here. Let me pull it up.

15 - - - - -

16 (Previously marked Deposition Exhibit  
17 G, was shown to the witness.)

18 - - - - -

19 MS. COOPER: I will give you control,  
20 Heidi. There are two names, John Chmura, and then  
21 there is you. I don't know if the computer misnamed.  
22 Should I give control to you?

23 MS. SIEGMUND: Yes, you can give it to me.

24 MS. COOPER: Okay.

25 Q. If you can take a look at this document.

1 MS. SIEGMUND: My apologies. I should have  
2 mentioned at the beginning that John is sitting in as a  
3 corporate representative.

4 MS. COOPER: Okay. So that is Mr. Chmura.

5 THE WITNESS: He is joining.

6 MR. JOHN CHMURA: I am here. Just to get  
7 it on the record. I am here. I am just on mute.

8 MS. COOPER: Good morning, Mr. Chmura.

9 MR. JOHN CHMURA: Good morning.

10 BY MS. COOPER:

11 Q. And this is marked Exhibit G, Defendant's  
12 Exhibit G. This is the amended offer letter you were  
13 referring to just a moment ago, ms. Peterson.

14 A. Yes, ma'am.

15 Q. Anywhere in this letter does it make  
16 mention of any disciplinary action or warnings?

17 A. Why would we put that in a an amended offer  
18 letter? I am not following.

19 Q. Well, I am just simply asking, is there any  
20 reference to a warning or disciplinary action?

21 A. No.

22 Q. Why did Chmura prepare this amended offer  
23 letter?

24 A. Because Mr. Lombardo falsified a letter  
25 from GIS Web Tech offering him certain job benefits and

1 I think, overall, we were real tired of hearing about  
2 his requests for merit increase. It happened at least  
3 annually. And nobody consented to a merit increase,  
4 not even me.

5 Q. Mr. Lombardo's original offer letter made  
6 reference to annual merit increases, correct?

7 A. Yes, it does.

8 Q. Was that not Chmura's attempt to eliminate  
9 that reference in the original offer letter?

10 A. No, it was not an attempt to eliminate  
11 that, it was an intnet to clarify what he was eligible  
12 for, which is a cost of living increase. His merit is  
13 in his commission.

14 Q. So does this have anything to do with Mr.  
15 Lombardo -- with a performance warning?

16 MS. SIEGMUND: Objection. Asked and  
17 answered.

18 A. I can answer it. I mean, I think we had  
19 reached a point with Mr. Lombardo's behavior that we  
20 had to clarify why we didn't fire him in March of 2019.

21 Q. So it was deleting the reference to annual  
22 merit increase a punishment for what were disciplinary  
23 actions?

24 A. No, it was just clarifying.

25 Q. Okay. So the amended offer letter is in

1 Mr. Lombardo's personnel file, correct?

2 A. Yes.

3 Q. Is it fair to say that the amended offer  
4 letter was not related to any disciplinary action taken  
5 by Chmura?

6 MS. SIEGMUND: Same objection.

7 A. I don't know what you mean in this  
8 situation.

9 Q. I guess I am failing to understand how  
10 amending Mr. Lombardo's offer letter in any way relates  
11 to a warning or disciplinary action that Chmura  
12 instituted against Mr. Lombardo. I am not -- and if  
13 you can explain that to me, that would be appreciated.

14 A. So Mr. Lombardo came to his annual review  
15 with a falsified offer letter from GIS Web Tech that we  
16 had been in strategic partnership conversations with,  
17 and Mr. Lombardo threw a wrench into the middle of that  
18 relationship, which translates into revenue losses in  
19 future years. I think you have been through the  
20 present value conversation many times with this topic,  
21 so I don't have to give you that definition.

22 But as a result of that, that relationship  
23 has never really been repaired. And so the falsified  
24 document precipitated the amended offer letter, so that  
25 he would stop hounding us for merit increases.

1           Q.     How does merit increases -- okay. So I am  
2 still not seeing the connection, but --

3           A.     So we went from a request for annual merit  
4 increase to providing cost of living increases. So Mr.  
5 Lombardo benefitted from this letter.

6           Q.     At the time that Mr. Lombardo signed this  
7 amended offer letter, did his base of compensation  
8 change?

9           A.     He got a cost of living increase.

10          Q.     How much was that cost of living increase?

11          A.     It is CPI, so I don't know what CPI was  
12 last year.

13          Q.     Sorry. Can you say that again? I just  
14 missed it.

15          A.     The cost of living is based on CPI.

16          Q.     So my question --

17          A.     It is a cost of living -- it is a cost of  
18 living increase that is built in.

19          Q.     Okay, I am following that, but what was the  
20 specific cost of living increase Mr. Lombardo received  
21 in --

22          A.     I don't remember what CPI was.

23          Q.     And was the increase for cost of living  
24 provided concurrently with the signing of this amended  
25 offer letter?

1 MS. SIEGMUND: Object to the form of the  
2 question. You can answers.

3 A. I think you have to ask Sharon Simmons  
4 that. I don't know.

5 Q. I am going to show you a couple of  
6 documents here.

7 A. Okay.

8 - - - - -  
9 (Thereupon, Deposition Exhibit I, Copy  
10 of Handwritten Notes, was marked for  
11 purposes of identification.)

12 - - - - -  
13 Q. I am going to give you an opportunity to  
14 take a look at those.

15 A. I am familiar with it.

16 Q. Okay. What is this document?

17 A. So in March of 2019, after Mr. Lombardo's  
18 falsified offer letter from G.I. Web Tech was presented  
19 at his annual review, Chris Chmura and myself traveled  
20 to Cleveland to confront Mr. Lombardo about this  
21 situation. My intention was to fire him. I spent  
22 about an hour and a half with Mr. Lombardo getting him  
23 to admit that he just used the situation with GIS Web  
24 Tech to get a raise.

25 Q. Who was present in that meeting?

1           A.     John Chmura, Chris Chmura, Greg Chmura and  
2     sharon Simmons was on the phone.

3           Q.     Prior to coming up to Cleveland for that  
4     meeting from Richmond, did you have a phone call with  
5     Mr. Lombardo?

6           A.     I did, and prior to what he said in his  
7     deposition, we did not reach any kind of closure in  
8     that 10 minute phone call. So he falsified his  
9     statement.

10          Q.     When you say you didn't reach any closure,  
11     what do you mean?

12          A.     I could not get him to admit that he  
13     falsified the offer letter.

14          Q.     What do you recall of that conversation?

15          A.     I asked him if he falsified this document.  
16     He said, no, it was a legitimate offer letter, and he  
17     just used it to try to get a raise. It was legitimate  
18     and it was a sincere offer letter.

19          Q.     Now, do you understand that GIS actually  
20     did offer him a position?

21          A.     Yes, I had a lengthy conversation with my  
22     strategic partner at GIS.

23          Q.     Who initiated those conversations?

24          A.     I did.

25          Q.     And what did you say in those

1 conversations?

2 A. I asked if they made Mr. Lombardo an offer  
3 letter dated the end of December and they said, no.  
4 They made an offer letter in October and they had  
5 rescinded the offer letter, and then they sent me the  
6 offer letter. So I went to Cleveland with everything I  
7 needed to fire Mr. Lombardo.

8 Q. Why didn't you fire him?

9 A. Because I said he is a bad boy, but he is  
10 my bad boy and I am going to help him.

11 Q. What did you mean by that?

12 A. He is a problem. He is an ethical problem.  
13 He is has no moral fiber, no moral backbone. He will  
14 say and do anything to get what he wants, and those  
15 characteristics make him very good as an A player. So  
16 as I said earlier, you have to overlook things when you  
17 have an A player when you shouldn't. I should have  
18 fired him in March.

19 Q. Well, turning back to Exhibit I,  
20 Defendant's Exhibit I, there seems to be two different  
21 handwriting on this document; is that right?

22 A. Yes.

23 Q. Who -- if you could, just go line by line  
24 and tell me whose handwriting is whose.

25 A. Sure. Number one is me. Number two is me.

1 And when I decided, internally, I wasn't going to fire  
2 him -- he finally admitted that he did falsify the  
3 letter, we got to the hour and a half mark, and I asked  
4 him to write 3, 4, and 5 . Those are my words, and he  
5 wrote them. I asked him to sign this document. I  
6 realize it is not dated.

7 Q. And it is a little hard to see, but your  
8 signature is on this document, correct?

9 A. Yes. So is Mr. Lombardo.

10 Q. His is underneath yours, correct?

11 A. Yes.

12 Q. If you can, go back up on that.

13 A. (Indicating).

14 Q. It says, "Just used the situation, GIS Web  
15 Tech." What does that refer to?

16 A. That was what Mr. Lombardo said.

17 Q. What is, "I don't want to go anywhere"?

18 A. That was Mr. Lombardo saying he wanted to  
19 work for Chmura.

20 Q. Were those Mr. Lombardo's words or your  
21 words?

22 A. Those were Mr. Lombardo's words.

23 Q. And number 3, 4 and 5 -- sorry. Go ahead.

24 A. I was going to clarify 3, 4 and 5 are my  
25 words.

1           Q.     Okay. Understood. And what did you mean  
2     by, "Do the right thing every day"?

3           A.     I used to say that to my children.

4           Q.     Okay. Number 5, I think, says, tell me if  
5     I am wrong, "Approach GIS Web Tech and take  
6     responsibility for my action with the offer letter."  
7     What was meant by that?

8           A.     I wanted him to repair the damage he had  
9     done.

10          Q.     So what did you ask him to do?

11          A.     Apologize and accept the fact that he  
12     falsified their document.

13          Q.     Who was he supposed to apologize to?

14          A.     Ron Bertasi.

15          Q.     And he is at GIS WebTech; is that right?

16          A.     Yeah, it is a small shop. There's only  
17     three of them.

18          Q.     And did Mr. Lombardo call them to  
19     apologize?

20          A.     I never got any information back on that.

21          Q.     You weren't present during any  
22     conversation, though; is that fair?

23          A.     No, no.

24          Q.     I am going to show you what's been marked  
25     as Defendant's Exhibit R. Take a minute to take a look

1 at it.

2 - - - - -

3 (Thereupon, Deposition Exhibit R, Copy  
4 of , was marked for purposes of  
5 identification.)

6 - - - - -

7 A. (Reviewing.)

8 Okay. Thanks.

9 Q. Do you recognize this document?

10 A. Yes, ma'am.

11 Q. And what is it?

12 A. It is an email between Rick and the people  
13 that -- their transaction costs related to incorrect  
14 expense report, reimbursable.

15 Q. And this was an email string between you  
16 and Mr. Lombardo as well as Christine Steigmann?

17 A. Steigmann.

18 Q. This is an email correspondence between  
19 you, Mr. Lombardo and Ms. Steigmann, correct?

20 A. If you scroll back up, I do believe that  
21 Greg and Kyle were on there.

22 Q. Greg and Kyle, of course, were on the top?

23 A. And the date is August 25, 2017. And Kyle  
24 was his direct supervisor.

25 Q. And on Page 5 of the 6 pages, I think at

1 the bottom it says Mr. Lombardo is submitting an  
2 expense report to Ms. Steigmann, correct?

3 A. Yes.

4 MS. SIEGMUND: I think it is faster if you  
5 go. I have a lag on my screen.

6 MS. COOPER: Okay. Not a problem. All  
7 right.

8 Q. And this is Mr. Lombardo submitting an  
9 expense report to Ms. Steigmann and to you as well?

10 A. Yeah.

11 Q. Did you review all expense reports for the  
12 account managers and senior account managers?

13 A. Yes.

14 Q. And can you tell me what Ms. Steigmann's  
15 position was?

16 A. Finance manager.

17 Q. Is she still with the company?

18 A. She is not.

19 Q. And you wrote back to Mr. Lombardo in  
20 response that this hotel was pretty pricey, was that  
21 the conference rate, do you see that?

22 A. Yes, ma'am.

23 Q. And then he provided an explanation,  
24 correct?

25 A. Yes, he did.

1           Q.     Do you know if prior to booking his hotel  
2     room, Mr. Lombardo would have sought approval from  
3     anyone?

4           A.     2017? He would have gone through Christine  
5     at that point.

6           Q.     Okay.

7           A.     And now it's -- that's Sharon.

8           Q.     And if I scroll up here a little further,  
9     we are on page 3 of the 6 pages, this is an email, I  
10    believe, sent from -- your name carries on to Page 3  
11    here, but it comes from Leslie Peterson to Rick  
12    Lombardo and other copies on this email, Chris Chmura,  
13    Kyle West, Ms. Steigmann, Greg Chmura. Can you read  
14    this email and tell me what time -- you bring up issues  
15    with alcohol charges. And can you tell me a little  
16    more about that and why it was a concern?

17          A.     Our policy on alcohol is that you have  
18    alcohol only at a meal, and only if the client orders  
19    alcohol first, then you may order alcohol with that  
20    client.

21          Q.     And were you responsible for helping  
22    prepare that company policy?

23          A.     I basically borrowed that policy from  
24    Eastman Kodak.

25          Q.     And why was that the policy of the company?

1           A.       We want our business transactions to be  
2       sober.

3           Q.       But the company was okay with an alcoholic  
4       beverage at dinner, with food, I guess I should say; is  
5       that correct?

6           A.       Yes, ma'am.

7           Q.       What if a client ask an account manager to  
8       go out for a drink and talk business? What was an  
9       account manager required to do under those  
10      circumstances?

11          A.       Not go out for drinks. Go out for dinner.

12          Q.       What if the account -- or, what if the  
13      potential client didn't have time for dinner?

14          A.       Then they didn't have time for alcohol, or  
15      she.

16          Q.       Do you attend these conferences that  
17      account managers attend?

18          A.       Some of them.

19          Q.       And when you are at those conferences, do  
20      you see other attendees in the restaurant bar -- or I'm  
21      sorry -- in the hotel bar?

22          A.       No.

23          Q.       None?

24          A.       I don't go to hotel bars.

25          Q.       Okay. Do you ever walk past the hotel bar

1 to get to your room or to conference rooms?

2 A. Oh, yeah, the bars in conferences are wide  
3 open. You can see everybody that's in there.

4 Q. And have you observed anything at these  
5 conferences with respect to the people in these bars?

6 MS. SIEGMUND: Object to the form of the  
7 question.

8 A. I have. Of course I have.

9 Q. And have you ever observed any attendees in  
10 the bar, in the hotel bars?

11 A. Yeah, I have. I have seen them coming out.

12 Q. Okay. Is it your understanding that --  
13 well, let me rephrase. At these conferences, there is  
14 a lot of opportunity, or there is opportunity to  
15 interface with potential clients, or existing clients,  
16 correct?

17 A. That's the reason we go.

18 Q. And isn't some of that interaction in these  
19 hotel bars?

20 A. We have our own policies and standards. We  
21 don't conform to the status quo of the masses.

22 Q. Okay. This email references Laura Leigh.  
23 Who is Laura Leigh.

24 A. Laura Leigh Savage. Previous employee,  
25 director of operations.

1           Q.     And you reference -- you say, "below is the  
2     policy on entertainment you signed with Laura Leigh".  
3     Where would that policy be found?

4           A.     Onstage.

5           Q.     Was it a separate policy from the employee  
6     handbook?

7           A.     No, it was in the employee handbook.

8           Q.     And Mr. Lombardo, he provided -- if we  
9     scroll up -- an explanation to you, correct?

10          A.     Are you referencing the email I am looking  
11     at?

12          Q.     Yes. And if you want me to scroll down, or  
13     you want to scroll down, either way.

14          A.     (Reviewing.)

15                 Okay.

16          Q.     Mr. Lombardo provided an explanation to  
17     you, correct?

18          A.     Of course.

19          Q.     Did Chmura ultimately reimburse him for the  
20     beverages that he purchased for himself and his client?

21          A.     I don't remember.

22          Q.     Or clients?

23          A.     I would hope not.

24          Q.     Do you know whether Mr. Lombardo asked his  
25     supervisor, Mr. West at the time, before he took the

1 client out as to whether he could take that client out?

2 A. Is that supposed to be separate from our  
3 policy? I don't know. I don't know if he did or not  
4 but we have a policy, so he was bound to that policy.

5 Q. And I believe this occurred, based on the  
6 email, in 2017. Do you have a copy of the employee  
7 handbook as it stood in 2017?

8 A. I was told not to bring anything to this  
9 deposition.

10 Q. I don't mean right now. Does the company  
11 have a copy of the policy that was in effect at the  
12 time of this email?

13 A. Yes.

14 Q. Do you know if it was produced in  
15 Discovery?

16 A. I think it was, yes.

17 Q. I will represent to you that I have a copy  
18 of -- that I can show you, Exhibit Q, the July 19, 2019  
19 employee handbook. I will pull that up. But that is  
20 the only handbook I was able to find in the production.

21 - - - - -

22 (Previously marked Deposition Exhibit  
23 Q, was shown to the witness.)

24 - - - - -

25 A. It think we are talking about 2017, and you

1 are asking me to look at something that's for 2019, and  
2 I am focused on 2017, so why are you asking me to look  
3 at something that could have evolved?

4 Q. Just take a look at this exhibit. This is  
5 Defendant's Exhibit Q.

6 MS. SIEGMUND: Christine, I will note that,  
7 of course, Dr. Chmura was asked on the handbook and on  
8 the training on the handbook, so to the extent we are  
9 getting into that, that's fine --

10 A. Yeah, I did not prepare for this.

11 Q. But you did prepare to testify regarding  
12 disciplinary actions taken against Mr. Lombardo, and  
13 you have testified that there was a company policy that  
14 was -- that Mr. Lombardo did not adhere to when he  
15 bought company drinks, so I am going to ask you to take  
16 a look at this exhibit, Exhibit Q.

17 MS. SIEGMUND: Christine, can we go off the  
18 record for one second?

19 MS. COOPER: Yes.

20 - - - - -

21 (Discussion had off the record.)

22 - - - - -

23 MS. SIEGMUND: Is there a particular page  
24 you would like me to go to that would speed this up a  
25 little bit.

1 MS. COOPER: Well, I want her to be  
2 familiar with the document, but we are going to look at  
3 Page 5 -- well, really Page 6.

4 A. (Reviewing.)

5 Q. Do you recognize this document,  
6 Ms. Peterson?

7 A. Yes, ma'am.

8 Q. And what is it?

9 A. It's an employee handbook.

10 Q. And is it the employee handbook that was  
11 put in place as of July 19, 2019; is that correct?

12 A. I don't know. I have to go back to the  
13 top.

14 Q. Can you see the dates on there, July 19,  
15 2019?

16 A. I can.

17 Q. I am going the take you to Page 6. Do you  
18 see the entertainment section in the handbook?

19 A. Okay. This is about picking out a  
20 restaurant for dinner and having alcohol, yes.

21 Q. Is this the policy you were referring to --  
22 well, let me ask this. Has this policy changed between  
23 2017, the date of the email that we were just looking  
24 at, and 2019? Are you aware of any changes to this  
25 part of the employee handbook?

1 A. Does it end on Page 6? (Reviewing).

2 Yes, that's the same policy.

3 Q. Is this the policy you were pointing Mr.  
4 Lombardo to in your email?

5 A. Yes, ma'am.

6 Q. Is there any parts of employee handbook --  
7 let me ask this, does this provision in the handbook  
8 prevent an employee from taking a client out to -- for  
9 a drink at a bar or -- let me stop there.

10 A. I don't see the word, bar, in that  
11 paragraph.

12 Q. Does it prevent an account manager, or  
13 senior account manager, from having a drink with a  
14 client or potential client?

15 A. No.

16 Q. Is there any part of the employee handbook,  
17 to your knowledge as it existed in 2017, that prevented  
18 an account manager or senior account manager from  
19 having a drink with a client or potential client?

20 A. If in a restaurants and the client orders  
21 alcohol, then the account manager can certainly follow  
22 suit.

23 Q. Is there anything preventing them or  
24 barring them from having a drink with a client if it is  
25 not at a restaurants over dinner?

1 A. It is not stated that way.

2 Q. Other than the email we just looked at and  
3 the handwritten sheet of paper that we looked at a  
4 moment ago, are there any other written -- to your  
5 knowledge, did in Mr. Lombardo's personnel file that  
6 pertain to any disciplinary actions or warning, in the  
7 offer letter -- sorry, in the amended offer letter from  
8 your testimony -- let me restate my question.

9 MS. SIEGMUND: Yeah, I got lost. I'm  
10 sorry.

11 Q. In the amended offer letter, Exhibit I,  
12 which is the handwritten document we went over, and  
13 Exhibit R, which is the email, are you aware of any  
14 other written documentation pertaining to any warning  
15 on disciplinary action with respect to Mr. Lombardo in  
16 his personnel file?

17 A. In 2016, the annual review was conducted  
18 between Mr. Lombardo and Laura Leigh Savage, Leslie  
19 Peterson, and there were some, continues improvement  
20 suggestion around ethical and more or less moral  
21 behavior that were documented and handed off to, I  
22 believe that was, Christine Steigmann at the time.

23 Q. And are you aware of whether those are  
24 still in Mr. Lombardo's personnel file?

25 A. I'm not. We are not allowed to really see

1 personnel files. That's just within H.R.

2 Q. So your -- you don't have access to the  
3 personnel files?

4 A. We don't access personnel files. That's  
5 within the control of H.R.

6 Q. But you would have access to it if you  
7 wanted to see them; is that fair? Let me ask you, are  
8 you prohibited from looking at the personnel files?

9 A. I don't know. I don't think so, but I  
10 don't know. I don't look at people's personnel files.

11 Q. Did you look at Mr. Lombardo's personnel  
12 files to prepare for this deposition?

13 A. I did not.

14 Q. Then how can you testify regarding what's  
15 contained -- what warnings -- let me rephrase that.

16 What disciplinary action, if any, was taken  
17 against Mr. Lombardo during his tenure there?

18 A. Life coaching.

19 Q. Can you explain what you mean by that?

20 A. Do you play sports?

21 Q. I did, yes.

22 A. You look like an athlete.

23 So the role of the coach is to continuously  
24 improve the players in order to win games. As his  
25 coach, I was continuously working on his behavior to

1 make -- help him become a better player. If you see  
2 that as disciplinary, I see it as disciplinary. If you  
3 see it as coaching, then it is coaching.

4 Q. Other than coaching, is there any other  
5 disciplinary action that Chmura took?

6 A. No.

7 Q. We are going to change topics  
8 substantially, so if we want to take a short break now  
9 or keep moving forward, I just want to be flexible to  
10 that. Now would be good time if anybody needs a break.

11 A. I don't.

12 MS. SIEGMUND: You want to keep going?

13 THE WITNESS: Okay.

14 Q. Okay. I am going to turn your attention to  
15 Topic Number 25 on Exhibit A, "The calculation of  
16 commissions paid to Mr. Lombardo." You are the  
17 designated corporate representative to testify on this  
18 topic, correct?

19 A. Yes, ma'am.

20 Q. I am going to put up two documents,  
21 Defendant's Deposition Exhibit J and K.

22 - - - - -

23 (Thereupon, Deposition Exhibit J, Copy  
24 of , was marked for purposes of  
25 identification.)

1 - - - - -

2 - - - - -

3 (Thereupon, Deposition Exhibit K, Copy  
4 of , was marked for purposes of  
5 identification.)

6 - - - - -

7 Q. I am going to give you control.

8 A. What does, produced natively mean?

9 MS. SIEGMUND: That just means we produced  
10 it as an Excel spreadsheet and so there is a place  
11 holder in our production, so it doesn't have a Bates  
12 number at the bottom.

13 THE WITNESS: Okay.

14 Q. If you can go ahead and scroll through  
15 Exhibits J, and scroll through Exhibit K and  
16 familiarize yourself with these.

17 A. (Reviewing.)

18 So I am only commission numbers.

19 Q. Are you ready?

20 A. Yes, ma'am.

21 Q. Okay. Turning to exhibit J first. Do you  
22 recognize this document?

23 A. It look like a commission report.

24 Q. And do you know when this commission report  
25 was assembled?

1           A.       That's evolved over time. What time period  
2 do you want me to speak to.

3           Q.       Well, I mean, this specific document. Do  
4 you know how this specific document was put together.

5           A.       2016? That would have been Ms. Steigmann  
6 individually reaching out to the account managers and  
7 preparing what she had on the books as their  
8 commissions. They reviewed it, edited it, pushed it  
9 back to Christine Steigmann which recorded those edits  
10 and then pushed it to me to review.

11          Q.       Does Exhibit J accurately reflect the  
12 commissions that is Mr. Lombardo was paid from October  
13 2015 through february 2017?

14          A.       I can't remember that. If this is an  
15 approved expenditure or commission report, then I would  
16 have to say, yeah.

17          Q.       Who, ultimately, approved the amount of  
18 commissions that would be paid during this time period,  
19 October 2015 to February 2017?

20          A.       Me.

21          Q.       If we go up, I am going to take that up to  
22 the first page up here (indicating) and shrink it a  
23 little bit.. Is that still clear?

24          A.       Can you move the right column to the  
25 left -- my left so I can see the comments on the right,

1 or is this a scanned document?

2 Q. This is a PDF version of the excel  
3 spreadsheet that was produced.

4 A. Well, without comments on the right, I'm  
5 not familiar, but I will do my best.

6 Q. Do you believe there were comments on this  
7 particular spreadsheet of the February --

8 A. I am used to seeing comments on the right,  
9 yes, ma'am.

10 Q. Okay. Give me one moment here. See if we  
11 can do it this way (indicating).

12 MS. COOPER: Let's go off the record.

13 - - - - -

14 (Short recess taken).

15 - - - - -

16 (Thereupon, Deposition ExhibitAG , Copy  
17 of , was marked for purposes of  
18 identification.)

19 - - - - -

20 BY MS. COOPER:

21 Q. Okay. I am going to give you control of  
22 this. I will represent to you this is the native  
23 version, or excel version of what I had marked as  
24 Defendants Exhibit Deposition Exhibit J. This one is  
25 marked as defendant's exhibit AG, and the place holder

1 is Chmura 000131. And I will give you an opportunity  
2 to manipulate this and take a look at it.

3 A. (Reviewing.)

4 If you could move to the left, row A and  
5 then freeze B --

6 Q. Do you want me to freeze Row B?

7 MS. SIEGMUND: Yes.

8 A. Yes, I want to see the name as we scroll  
9 across.

10 Q. (Indicating). Okay. You should be able  
11 to now.

12 A. Okay.

13 Q. Do you recognize this document?

14 A. Yes, ma'am.

15 Q. What is it?

16 A. It looks like commission reports from  
17 November 2016.

18 Q. And did you prepare this report?

19 A. No.

20 Q. To the best of your knowledge, is that a  
21 true and accurate copy of the 2016 commission report?

22 A. To the best of my knowledge, yes.

23 Q. And there are some other tabs at the  
24 bottom. There is February 2017, January 2017, December  
25 2016, November 2016, October 2016, correct?

1 A. Correct.

2 Q. And do you want to page through those and  
3 tell me if those are also accurate to the best of your  
4 knowledge?

5 A. (Reviewing.)

6 Looks accurate.

7 Q. Do you know who prepared this spreadsheet?

8 A. Christine Steigmann.

9 Q. And how was this -- how would the  
10 information get onto this spreadsheet?

11 A. Sure. As I said earlier, Christine  
12 Steigmann would start on the month of commissions in  
13 front of each account manager what was on the books,  
14 and then any correction that needed to be made, the  
15 account managers work with Christine on that until they  
16 got it to where they felt like it was right, and then  
17 it came to me.

18 Q. And then what would you do once it came to  
19 you?

20 A. I would review each transaction and if I  
21 had a question, I would go direct to the account  
22 manager, senior account manager and seek clarification  
23 if it wasn't properly noted in the comment section, row  
24 -- Column K.

25 Q. Would you ever make adjustments to

1 commission percentages?

2 A. No.

3 Q. Would you make adjustments to the  
4 commission dollar amount?

5 A. No.

6 Q. Who would do that?

7 A. Christine Steigmann.

8 Q. Would she do that at your direction?

9 A. Yes.

10 Q. Now, what were the -- take the November '16  
11 tab you were on on exhibit AG, are these the  
12 commissions for Mr. Lombardo?

13 A. Yes, it says RL, Column G.

14 Q. Let's walk through them. I going the take  
15 us up so we can see the header here. Walk through the  
16 columns with me. So it has, Opportunity Name. Can you  
17 explain what that column is?

18 A. The opportunity is the language that's used  
19 in Salesforce to be tied with a client's name.

20 Q. And the Type, can you explain, what -- I  
21 missed one. If we go to -- well, let's fin this up  
22 firstist. The Commission, can you explain to me the  
23 Commission column?

24 A. Oh, there's Type. Should we do Type since  
25 we are here?

1           Q.     Yes, please.

2           A.     It would be either new business or it would  
3 be a contract that was a renewal -- a license that was  
4 renewing.

5           Q.     And what's the amount next to it?

6           A.     Amount next to it, if it's a renewal,  
7 represents 3% of that opportunity.

8           Q.     So if we look at, once you get back to the  
9 top there, Column C says, Amount. What was that  
10 amount?

11          A.     If it says renewal, it is 3% of -- that is  
12 the amount of the contract, excuse me, yes.

13          Q.     And the next column is -- yeah, the next  
14 column is really Columns C and E combined, says  
15 Commission. And the first column there of the  
16 commission has the percentage in it. What did that  
17 percentage represent?

18          A.     If it is a renewal, it is 3% of the amount.  
19 If it is new business, it is 15% of the amount with  
20 certain caveats.

21          Q.     And the not dollar value next to the  
22 percentage amount, what does that represent?

23          A.     The commission.

24          Q.     On the right hand side. Let me rephrase  
25 that so it is clear for the record.

1                   To the right-hand side under the Commission  
2     Column, there is a dollar value next to percentage.

3     What does that represent?

4             A.     Commission.

5             Q.     And then there is a Renewal Date Column.

6     What is the Renewal Date column?

7             A.     That is the date that the license agreement  
8     is renewed.

9             Q.     And then there is a Column H that says --  
10    i'm sorry, Opportunity Owner is Column G and it has  
11    some initials there, RL. What is an Opportunity Owner?

12            A.     That's just a designated account manager.

13            Q.     So in this instance, R L would stand for  
14    Richard Lombardo, correct?

15            A.     Yes.

16            Q.     And then Column H says Demo, question mark.  
17    What is that column?

18            A.     That says who did the demo.

19            Q.     And if it has and NA in that column, do you  
20    know what that means?

21            A.     Typically N A means, not applicable.

22            Q.     So, for example, in the row that you are  
23    in, in row 5, it was a renewal and so it has an N A in  
24    Demo. I take it there wouldn't usually be a demo for a  
25    renewal; is that fair.

1 A. Yeah, absolutely.

2 Q. And then Column I says, Survey Sent,  
3 question mark. What survey is that column referring  
4 to?

5 A. Customer satisfaction survey.

6 Q. And there are dates in there, so did that  
7 represent the date that the survey was sent?

8 A. That's what the header says in Column I.

9 Q. And if there is answer N A in the field  
10 underneath that Column, what did that N A stand for?

11 A. Typically N A means not applicable.

12 Q. And then there is a Note column, Column J,  
13 correct? It doesn't look like there is any note --

14 A. Yes.

15 Q. I'm sorry, I broke my own rules. It'  
16 doesn't look like there are any notes in this  
17 particular one, but what type of notes would there be  
18 in that field?

19 A. Any information that was needed to  
20 clarify any of the previous columns, to clean up J.

21 Q. And then Column K says Paid, question mark.  
22 What is that column?

23 A. That indicates the date that we received  
24 payment for that license agreement from that  
25 Opportunity Name.

1           Q.     So it doesn't refer to the date that the  
2     account manager may receive the commission in their  
3     pay, correct?

4           A.     Correct.

5           Q.     And so if we look at Row 9 and 10 on the  
6     November 5, 2016 tab of Exhibit A G, there is a as  
7     yellow dot in K with no date in it. Doe s that mean  
8     that commission -- sorry, that the contract had not  
9     been paid by the client at that point?

10          A.     I used to get these from Christine, and it  
11     looked like an artifact to me.

12          Q.     But if there is no date in that column,  
13     then what your understanding would be is that that  
14     client hadn't paid that commission yet -- not the  
15     commission, hadn't paid on the contract yet, correct?

16          A.     If there is not a date in there, then we  
17     are still waiting on payment.

18          Q.     Okay. Continue.

19          A.     And at that point we went ahead and paid  
20     whether we had been paid or not.

21          Q.     At some point, that changed, correct, how  
22     the commission was paid, the timing of the payment of  
23     commissions was changed, correct?

24          A.     Yes.

25          Q.     And can you explain what change was made?

1           A.       We paid commissions when we receive payment  
2       from the client.

3           Q.       When Mr. Lombardo first started working for  
4       Chmura, what percent was paid on -- well, let me  
5       rephrase that.

6                   What constituted new business? What would  
7       be included in new business?

8           A.       This was a new opportunity

9           Q.       And how was that defined?

10          A.       I'm sorry? How was that defined?

11          Q.       Yes.

12          A.       New business means that it is a new client.

13          Q.       Do you know if there are records for the  
14       commissions paid to Mr. Lombardo in 2015?

15          A.       Sorry, could you restate that? You were  
16       turning your head and I couldn't hear you.

17          Q.       I'm sorry. Yeah, absolutely. I said, are  
18       you aware of whether there are any records for  
19       commissions paid to Mr. Lombardo in 2015?

20          A.       There would be records in QuickBook.

21          Q.       And do you know if those were produced, his  
22       commission records were produced in Discovery?

23          A.       I do not. In 2015?

24          Q.       Yes.

25          A.       I do not.

1           Q.     Do you know when the change was made on the  
2     time of commission payments?

3           A.     In early 2019.

4           Q.     I am going to show you what's been marked  
5     as Exhibit AH, it is aother spreadsheet.

6                                 -   -   -   -   -

7                                 (Thereupon, Deposition Exhibit AH, Copy  
8                                 of       , was marked for purposes of  
9                                 identification.)

10                                -   -   -   -   -

11          Q.     If you can take a look at this.

12          A.     (Reviewing.)

13                         That was an interim. We were getting into  
14     situations where clients weren't paying and we paid out  
15     commissions, and we had to have fiduciary  
16     responsibility within the account managers to earn  
17     their renewal, so they needed to track down those past  
18     due notices, and that's what that Row 1 is about.

19          Q.     Do you recognize this spreadsheet?

20          A.     Yes, ma'am.

21          Q.     And what is it?

22          A.     It appears to be a commission report.

23          Q.     It goes from march of 2017 through  
24     September of 2019, correct?

25          A.     That's what the tabs indicate at the

1 bottom.

2 Q. And these are Mr. Lombardo's -- pertain to  
3 Mr. Lombardo's opportunities, correct?

4 A. I am used to seeing all of them together,  
5 so, if this is a commission report, it should have  
6 everybody in there, not just Mr. Lombardo.

7 Q. Well, does this one contain everybody as  
8 you look through it?

9 A. Well, I can only see Rows 1 through 19.  
10 This appears to be something that was prepared in  
11 production for this case, so I would not say it was --  
12 no.

13 Q. Did you prepare it?

14 A. No.

15 Q. Do you know who did prepare it?

16 A. Sharon Simmons most likely, or Hanna  
17 Weisenhart \*.

18 Q. Did you review it for your deposition  
19 today?

20 A. I did not.

21 Q. I am going to show you the first  
22 spreadsheet here and ask you a few questions on it.  
23 You will see on Row 18, this is tab March 7, 2017 of  
24 exhibit A H, and if you look at Row 18 in the Admission  
25 column --

1           A.     Do you mind highlighting that for me, put  
2     your cursor on it?

3           Q.     Sure.

4           A.     I have a little bit of astigmatism.

5           Q.     In the Commission Percent column, you see a  
6     7 1/2 %?

7           A.     Uh-huh.

8           Q.     Why is it 7 1/2 and not either 15 or --  
9     well, let me take a step bpack. Row 18 shows the type,  
10    New Business, correct?

11          A.     Yes, ma'am.

12          Q.     And it shows in the commission Column, the  
13    7 1/2 %, correct?

14          A.     It does.

15          Q.     And why would that be at a 7 1/2% versus a  
16    15%?

17          A.     In March of 2017, that would have been Kyle  
18    West in the supervisory role and more than likely it  
19    says in Column J that Rick and Austen worked on this  
20    together, so they split the commission.

21          Q.     So was that common, then, that splitting  
22    commission if two account managers worked on an  
23    opportunity together?

24          A.     Is your use of word, common, frequent, or  
25    is your use of the word, common, a policy manner?

1           Q.     Let me rephrase that. Thank you. Was it  
2     policy to split the commission if more than one account  
3     manager worked on an opportunity?

4           A.     Absolutely. They worked as a team. Those  
5     are the two meteorites working together on that one.

6           Q.     Did they -- well, who decided the split on  
7     the commission if two account managers worked on an  
8     opportunity together?

9           A.     I probably did.

10          Q.     Would you ultimately apporove it or not?

11          A.     Absolutely. Absolutely.

12          Q.     How were -- if, for example, there was new  
13     business that signed a multi-year contract, and paid  
14     that multi-year contract upfront, how were commissions  
15     calculated on that basis?

16          A.     So let me give you that in a why response  
17     and not a how, is that okay?

18          Q.     You can give me whatever response you give  
19     me and I will listen to you and follow-up.

20          A.     Okay. So would you restate the question?  
21     You want to know how multi-years deals were handled in  
22     terms of commissions when the entire multi-year deal  
23     was paid in year X?

24          Q.     Correct.

25          A.     Because the client, particularly the B to B

1 client, can cancel at any time, there is not a  
2 guaranteed 3% deal. Now, if they pay upfront, we still  
3 have to get those renewals, right? Which means if you  
4 get 15% commission, you really need to follow-up with  
5 those touch points every quarter. You can kind of let  
6 that one slide because you already got your commission  
7 for it. So to make sure those touch points that were  
8 required for renewal, you have to make sure that you  
9 take the 12 month commission and a 3% renewal  
10 thereafter.

11 Q. Was it standard policy at Chmura for  
12 account managers and senior account managers to not  
13 have any touch points with a client that signed a  
14 multi-year -- signed and paid a multi-year contract?

15 A. So it is Chmura, not Shmura, if you don't  
16 mind. Dr. Chen, Chmura.

17 At Chmura, we did everything we could to  
18 incentivize our account managers to take care of your  
19 client. So rather than pay 15% up front, we take 15%,  
20 renewal. 15%, renewal, renewal, renewal. Depends on  
21 the terms, but you wanted that client to renew.

22 Did I answer your question? Was it a  
23 standard practice question or policy question?

24 Q. Was the standard policy on a contract, on a  
25 multi-year contract that was fully paid upfront for an

1 account manager and senior account manager to have no  
2 touch points with that client after that contract was  
3 paid?

4 A. No, we would never encourage no touch  
5 points. The whole thing I just went through was the 3%  
6 commission.

7 Q. Okay. Was it ever put in writing that a  
8 multi-year contract, fully paid, would be paid out in  
9 commissions at 15% on the first year and 3% on the  
10 years thereafter?

11 A. That was recorded on the standard operating  
12 procedures?

13 Q. When were those standard operating  
14 procedures adopted?

15 A. Under Greg Lodge \* in 2017.

16 Q. So what about commissions prior to the  
17 standard operating procedures?

18 A. Well, generally, thing go like this,  
19 Christine, is you have a year and you develop the Best  
20 Practices and that would have been 2015 through 2016.  
21 Once you get through all the kinks of a start-up  
22 department, then you organize standard operating  
23 procedures based on best practices and those experience  
24 continuous improvement.

25 Q. How were -- let me ask this: Were

1 commissions paid differently on multi-year contracts in  
2 2015 and 2016 than they were in 2017 going forward?

3 A. That's not to my understanding, no.

4 Q. When an account manager started at Chmura,  
5 how were they paid for -- well, let me rephrase that.  
6 If an account manager, let's say, inherited an  
7 opportunity from a prior account manager and ultimately  
8 closed the deal, how were commissions paid on that deal  
9 to the new account manager?

10 A. What year are you in? When you said  
11 started --

12 Q. Well, new --

13 A. And the account manager -- can you be more  
14 specific about what you mean by new account manager --

15 Q. If Chmura hired a new account manager --  
16 when Chmura --

17 A. When?

18 Q. In 2015. Who inherited an opportunity and  
19 ultimately closed that opportunity, how were they --  
20 what percentage of commission were they paid?

21 A. As we discussed last week, there were  
22 practices in place that if they prospected that client,  
23 they did -- they set up the demo, they actually did the  
24 demo on their own without the help of an economist or  
25 statistician to close that deal, they did the paperwork

1 properly in Salesforce -- the documentation, excuse me,  
2 and then they correctly reported information to the  
3 Accounting Department, that constituted a complete 15%  
4 initial sales cycle. If they inherited that, then we  
5 have to look at how they inherited that, who did the  
6 demo, was there supporting staff on that demo? Did  
7 they close, et cetera, et cetera?

8 So you have to be able to understand the  
9 full sales cycle. So if they just got a wet signature  
10 on a license agreement, that's the equivalent to the  
11 level of effort of a renewal, so that was 3%. If they  
12 didn't --

13 Q. Did they -- sorry.

14 A. No, go ahead.

15 Q. Was there ever an instance in which an  
16 account manager only had to procure a signature on a  
17 contract and still got paid the 15% commission between  
18 2015 and today?

19 A. Not that I'm aware of.

20 Q. To your knowledge, did you ever approve the  
21 commission in that instance, at 15%?

22 A. What is the 15%, the complete sales  
23 cycle?

24 Q. No, in the instance in which a contract --  
25 where is the demo had already been completed and the

1 contract was about to be inked, I think were your  
2 words. Had you ever approved a 15% commission for an  
3 account manager who inherited it in that status?

4 A. I have no recall of doing that.

5 Q. I want to turn your attention to this  
6 November 2017 tab on AH. And if you look at Row 5, you  
7 will see under Commission there is 5%. Can you explain  
8 in this instance why a 5% commission was paid on new  
9 business instead of 15%?

10 A. So this was under Greg in 2017, November of  
11 2017. He could took over October 1 of 2017. So let me  
12 see what's in that -- are we on Row 5 is that the  
13 timeline we're in?

14 A. Yes.

15 Q. Cuyahoga County? Oh, my gosh. I'll never  
16 forget that one. Yeah, Cuyahoga County is our office  
17 county for our headquarters in Cleveland. And Cuyahoga  
18 County came in to the Cleveland office, and the only  
19 demo was given by Greg. The paperwork to get Cuyahoga  
20 County as a new client was unbelievable. I believe  
21 that our Operations Department worked on that for six  
22 months before we were able to get it in.

23 So Rick got 5% in that situation because he  
24 didn't do the demo, he didn't do the paperwork. It  
25 falls into that 5% category of -- pretty much a

1 judgment call, but that would have been Greg's call.  
2 And it was an RFP, so he wouldn't have filled out the  
3 RFP -- I think that's a very generous commission for  
4 the level of effort that he had to do.

5 Q. Was there a written policy of reducing the  
6 commission from 15% to a lesser amount if an R F P was  
7 involved?

8 A. Yes, he should have an email on that from  
9 me.

10 Q. Do you recall when you would have sent that  
11 email?

12 A. I was the only one that sent the email.  
13 Was that the question?

14 Q. No. Do you recall when you would have sent  
15 that email?

16 A. Oh, I think it was March of 2015.

17 Q. And do you know if that email was produced  
18 in Discovery?

19 A. Yes.

20 Q. Was it?

21 A. Yes.

22 Q. I am going to show you, or direct your  
23 attention to the October 2017 tab on Exhibit AH. The  
24 Opportunity Name is Entergy Mississippi and it has a 6%  
25 commission in the Commission column. Can you explain

1     why this one has a 6% commission in tha t column?

2             A.     That would be Greg's judgment, but I can  
3     tell you when Entergy was being managed by Rob  
4     McMillin, they were a former client, and I don't know  
5     the details behind this one.

6             Q.     Did you approve the 6% commission?

7             A.     No, that would have been Greg.

8             Q.     You mentioned earlier that Greg took over.  
9     What did Greg take over?

10            A.     He took over Kyle's supervisory role of the  
11    sales team because Kyle --

12            Q.     Go ahead. You can finish your thought.  
13    What did Kyle --

14            A.     No, no. I just -- Kyle had other plans.

15            Q.     What were Kyle's other plans?

16            A.     He wanted to go to Italy with his wife.

17            Q.     Okay. How long -- and Kyle is Mr. West,  
18    right, Kyle West?

19            A.     Yes, ma'am.

20            Q.     Kyle -- how long was Mr. West in Italy for?

21            A.     The month of January 2018, the month of  
22    April and half of May of 2018.

23            Q.     And did he come back to work in May of  
24    2018?

25            A.     He did.

1           Q.     I am going to show you the tab so we can go  
2     to a concrete example.   (Indicating).   Okay.   I froze  
3     the first column here.   We are on the April 2019, the  
4     April 2019 tab of Exhibit AH, and I want to direct your  
5     attention to Row 11 and 12.   I highlighted Row 11.   If  
6     you could just take a look at those two rows for us for  
7     a minute and tell me when you are ready.

8           A.     (Reviewing.)

9           Q.     Are you familiar with the "Workforce  
10    Solution, South Plains 3 year agreement opportunity"?

11          A.     That was a mouthfull.   Somewhat, yeah.

12          Q.     And there is a note in this particular row  
13    that states, if you want to scroll over for a moment,  
14    "Rick was paid for all three years at the new business  
15    rate.   Only the 12 months should be paid at that rate."  
16    Do you see that?

17          A.     Yes, ma'am.

18          Q.     Do you know who made that note?

19          A.     It was either Sharon or Hanna.

20          Q.     And we talked about how the 15% commission  
21    would be paid on the first year and then the 3% would  
22    be paid on the remaining years on the contract that was  
23    paid in full, correct?   We already talked about that?

24          A.     Yes, ma'am.

25          Q.     Is this one of the instances in which Mr.

1 Lombardo would have been paid commission on the first  
2 year at 15% and then the remaining paid at 3%?

3 A. Yes.

4 Q. Who, in this instance, the -- let me  
5 rephrase.

6 Did you approve payment on this one at the  
7 rate of 15% for the first year and 3% for the remaining  
8 years?

9 A. That would have been April '19. That would  
10 have been early in Eli's tenure, so I imagine he was  
11 just learning, so this probably went to Sharon after  
12 Eli glanced at it. He wouldn't have known enough at  
13 that time to -- I mean, he may have. Talking about Eli  
14 here. So I don't know about this one. I am aware that  
15 that adjustment was made.

16 Q. Okay. To your knowledge, was -- we looked  
17 at the spreadshea AG, which was October 2016 to  
18 February 2017. Was the spreadsheet we are looking at  
19 now, A H, did it pull information from a different  
20 source than spreadsheet A G?

21 A. No, everything came from QuickBooks and  
22 backed up by Salesforce.

23 Q. So we talked about opportunity. We talked,  
24 multi-year contracts, talked about commissions when  
25 more than one account manager worked on opportunities.

1 Were there any other instances in which a commission  
2 would be adjusted?

3 A. No, unless there was a mistake like this  
4 one appears to be a mistake.

5 Q. Well, this was -- you are talking,  
6 Workforce Solutions on tabs -- on the April 2019 tab,  
7 correct?

8 A. Yes. Any time you see something in red  
9 with a negative on it, it is an adjustment and  
10 somebody's mistake.

11 Q. But this was an adjustment for a multi-year  
12 paid contract, correct?

13 A. Yes, ma'am.

14 Q. I want to change topics now and close this  
15 out. I am going back to Exhibit A, Notice of  
16 Deposition. You were designated as the corporate  
17 representative to speak about "Eli Auerbach's  
18 termination, including the decision to terminate,  
19 reason for termination and notice to Mr. Auerbach of  
20 his termination"; is that correct?

21 A. Yes.

22 Q. When was Mr. Auerbach terminated? When was  
23 his employment terminated?

24 That was a poorly worded question.

25 A. December of 2019.

1           Q.     What were the circumstances surrounding his  
2     employment termination?

3           A.     He wasn't meshing with leadership in terms  
4     of direction we wanted to go. He had a different  
5     direction he wanted to take the sales team and the  
6     level of conflict that was creating for the sales team  
7     wasn't necessary.

8           Q.     What direction did he want to take the  
9     sales team?

10          A.     He wanted to, basically, raise their base  
11     salary and lower their commissions, which was creating  
12     anxiety for them.

13          Q.     After Mr. Auerbach was terminated, did  
14     Chmura make adjustments to the commission structure?

15          A.     So we got kind of caught -- blindsided with  
16     two new hires that came in that December, and  
17     unbeknownst to us, Mr. Auerbach had designed their  
18     offer letters, signed it himself, sent it out. And so  
19     they came in under, here is the structure, and that was  
20     never approved by leadership. So we were pretty much  
21     stuck. So we had some bumps there, bumps in the road.  
22     And, I mean, he didn't have the the authority to sign  
23     an offer letter.

24          Q.     So Mr. -- Mr. Auerbach did not have  
25     authority to -- let me ask, who does have authority to

1 sign an offer letter?

2 A. Me, Sharon Simmons, Chris.

3 Q. And in these two instances, you didn't?

4 A. Can I correct my testimony? John Chmura  
5 and Greg Chmura can sign for their people.

6 Q. And then, also, the others you listed can  
7 sign for account managers, is that right? Ms. Simmons,  
8 and was there somebody else you mentioned as well?

9 A. Chris Chmura, but I don't believe there is  
10 any situation where Sharon or Chris signed. It was  
11 usually me.

12 Q. And in these two instances, you didn't  
13 review the offer letter before they went out to these  
14 new account managers?

15 A. No, I didn't see them.

16 Q. When did you discover that these offer  
17 letters had gone out in the form that they did?

18 A. When the decision was made between Eli and  
19 Aisha to hire them, I got to see the letter then, and  
20 it was the new sales structure that we hadn't even  
21 approved.

22 Q. Were those letters already signed by the  
23 new employees?

24 A. When I saw them?

25 Q. Yes.

1 A. I don't remember.

2 Q. Is the sales team currently being paid on a  
3 different commission structure than was in effect when  
4 Mr. Lombardo was employed?

5 A. Yes.

6 Q. And is it the structure that Mr. Auerbach  
7 proposed?

8 A. Yes.

9 Q. When was that change made?

10 A. December 1, 2019.

11 Q. And was leadership involved in that  
12 decision?

13 A. We had to deal with the situation of two  
14 employees coming in with a different sales structure  
15 than the remaining employees.

16 Q. Why was the decision made to alter the  
17 existing -- alter the structures of existing employees  
18 as opposed to the new employees?

19 A. Some members of leadership felt like the  
20 new structure was good and that it was more manageable  
21 and sustainable over time, but we shot ourselves in the  
22 foot on FMLA by raising somebody from 50,000 to 60 in  
23 terms of hitting that high income target.

24 Q. Prior to mr. Auerbach's termination, did  
25 Chmura have him sign an affidavit pertaining to this

1 case, Mr. Lombardo's case?

2 A. Eli was eager to sign that affidavit, yes.

3 Q. Who prepared that affidavit?

4 MS. SIEGMUND: I would object to -- or  
5 instruct you not to answer to the extent that gets into  
6 attorney-client communications.

7 Q. Are you not going to answer that question?

8 A. I am not.

9 Q. Let me ask this, did you prepare that  
10 affidavit?

11 A. No.

12 Q. Did you reveal the affidavit before it was  
13 provided to Mr. Auerbach?

14 A. Yes.

15 Q. And that affidavit was -- let me ask this,  
16 who handed the affidavit to Mr. Auerbach for his  
17 signature, if you know?

18 A. Greg Chmura.

19 Q. And Mr. Auerbach ultimately signed the  
20 affidavit, correct?

21 A. Yes.

22 Q. And the date he turned that affidavit back  
23 to the company, he was terminated; is that correct?

24 A. Yes.

25 Q. Who had the discussion with Mr. Auerbach

1 regarding his termination, if there was anything?

2 A. Greg Chmura.

3 Q. Were you present either by phone or in  
4 person when Mr. Auerbach was terminated?

5 A. No.

6 Q. Was leadership in agreement on terminating  
7 Mr. Auerbach?

8 A. Yes.

9 Q. I am going to turn your attention back to  
10 Exhibit A just for a second. I think we are on our  
11 last topic here. You were designated as the  
12 representative regarding Topic Number 32,  
13 Mr. Lombardo's personnel file; is that correct?

14 A. Yes.

15 MS. SIEGMUND: I think we went through a  
16 lot of this on Thursday, so, hopefully, we can  
17 fasttrack this.

18 MS. COOPER: We did. I think I only have  
19 one question on this, maybe two, but we already went  
20 through a lot today as well.

21 Q. Earlier today you testified you did not  
22 review his personnel file prior to this deposition,  
23 correct?

24 A. Correct.

25 Q. When was the last time you did review this

1 personnel file?

2 A. I don't know.

3 MS. COOPER: If we can take a break for a  
4 moment. I think this concludes the 30(b) portion of  
5 the deposition, but I want to page through. Let's take  
6 a short break.

7 MS. SIEGMUND: Do you want to take a lunch,  
8 or do you want a short break and keep going?

9 THE WITNESS: At this point, keep going.

10 MS. SIEGMUND: Okay.

11 MS. COOPER: Go to take five.

12 - - - - -

13 (Short recess taken).

14 - - - - -

15 BY MS. COOPER:

16 Q. I'd like to go onto the individual part of  
17 this deposition and move away from the 30(b)  
18 deposition. Some of the topics may sound a little  
19 similar, Ms. Peterson, but I will try to ask different  
20 questions, even though there is some overlapping in the  
21 way the topic designation is in the Notice of  
22 Deposition.

23 With respect to payment of commissions,  
24 when Mr. Lombardo first started, I think you already  
25 testified, that you would review and approve those

1 commission; is that correct?

2 A. Yes.

3 Q. And when he first started with the company,  
4 he was -- some of his commission rates were changed  
5 based on status of opportunity provided to him; is that  
6 correct?

7 A. Yes.

8 Q. Can you tell me a little more about those  
9 changes in commission rates if you recall?

10 A. Yes. I can tell you the same thing I told  
11 you several times. Do you want me to go through it  
12 again?

13 Q. Just as to when he first started, yes,  
14 please.

15 A. So prior to Mr. Lombardo's employment, we  
16 had Robert McMillin. He was -- he was more of a  
17 business development person for JobsEQ, and so he had  
18 gone to several conferences. He was prospecting. He  
19 was getting license agreements in place, and then left.

20 And so about two months later, we had gone  
21 to ComDoc and got an understanding of what a sales team  
22 for technology looked like. And when Mr. Lombardo came  
23 on, there were several deals amongst -- close, or even  
24 closed in the case of Berea \* county, I know they had  
25 already been closed in Salesforce.

1                   So we had that policy that I told you about  
2     before, the total initial sales cycle for 15% starts at  
3     prospecting and ends with the closed deal. If he  
4     didn't hit all of the points in that process, then the  
5     commission rates were calculated due to what we  
6     considered level of effort.

7           Q.     When did Mr -- is it McMillin? Is that  
8     right?

9           A.     Yes.

10          Q.     When did Mr. McMillin leave the company?

11          A.     November of 2014.

12          Q.     And Mr. Lombardo started in February of?

13          A.     February 18, 2015, yes.

14          Q.     And just so it is clear, because I had a  
15     hard time -- 2015 Mr. Lombardo started, correct?

16          A.     Yes.

17          Q.     And so some of the leads that were turned  
18     over to Mr. Lombardo were leads from Mr. McMillin,  
19     correct?

20          A.     Leads from Chris Chmura.

21          Q.     I want to focus just for a moment on the  
22     leads from Mr. McMillin if we could.

23          A.     Sure.

24          Q.     Are they -- are the leads from Mr. McMillin  
25     different than from Dr. Chmura?

1 A. No.

2 Q. So they were the same leads?

3 A. I thought you meant prospect.

4 Q. No, no. Were actual leads handed over to  
5 Mr. Lombardo pertaining to Mr. McMillin different leads  
6 than those that Dr. Chmura had worked on?

7 A. Yes. As far as I can remember, yes.

8 Q. With respect to the leads that were from  
9 Mr. McMillin, are you aware of any contact between  
10 those leads when Mr. McMillin left and when Mr.  
11 Lombardo started?

12 A. I can't be specific, but I know there was  
13 ongoing dialogue with opportunities before the sales  
14 team was organized.

15 Q. Can you be more specific? What do you mean  
16 by, before the sales team was organized?

17 A. So Mr. McMillin had a series of very warm  
18 leads, unsigned agreements that were already out there  
19 in the hands of the potential client. So they varied.

20 Q. What, if any, of Mr. McMillin's leads  
21 closed between the time he left the company and the  
22 time Mr. Lombardo started?

23 A. I know -- say that again?

24 Q. What leads, if any, closed between the time  
25 Mr. McMillin left the company and the time Mr. Lombardo

1 started?

2 Q. So I know in Salesforce there is a signed  
3 agreement with Leigh Towsey \*with Mr. McMillin's name  
4 on it.

5 Q. Did Mr. McMillin close that?

6 A. Did Mr. McMillin sign it? He did.

7 Q. So he would have been there at the time --  
8 he would have been employed by Chmura at the time that  
9 that was signed, correct?

10 A. Not necessarily. You can have a license  
11 agreement waiting on a signature.

12 Q. So does Chmura sign -- or a representative  
13 of Chmura, sign the agreement before it is sent to a  
14 prospective client?

15 A. Yes, yes.

16 Q. How many warm leads, or very warm leads  
17 were handed to Mr. Lombardo that were generated by  
18 Mr. McMillin?

19 A. I don't know the number.

20 Q. Would that information be documented  
21 anywhere?

22 A. Salesforce, if it is properly documented.

23 Q. Could you ballpark how many: 10, 20, 100?

24 A. I don't want to do that. That's guessing.

25 Q. How long is a lead very warm for?

1 A. Varies by client.

2 Q. What would be the range?

3 A. One day to one year.

4 Q. How was that determined, that length of  
5 time?

6 A. So -- money. Budget.

7 Q. Can you explain how?

8 A. As we discussed last week, our business to  
9 government client had longer sales cycles, typically,  
10 than our business to business client. That's driven by  
11 policy and practicality.

12 Q. The current sales team at Chmura, have they  
13 been hitting their quotas from the time Mr. Lombardo  
14 left to the current time?

15 A. They have not.

16 Q. Do you know the reason they haven't been  
17 hitting those quotas?

18 A. They're very young.

19 Q. Are they inexperienced?

20 A. Very.

21 Q. Does the company currently have any senior  
22 account managers?

23 A. No.

24 Q. Were there any warm leads after -- that Mr.  
25 Lombardo had that were distributed after his

1 termination?

2 A. I'm sure there were, but I am not aware of  
3 what they are.

4 Q. Are you aware of whether anyone worked  
5 those leads?

6 A. I am sure they did that under Dr. Shelly's  
7 watch and he is making sure that everything is in  
8 place.

9 Q. What is Dr. Shelly's background?

10 A. He is a Ph.D, a Harvard Fellow. He was a  
11 professor at Wake Forrest, and now he works for Chmura.

12 Q. And what's his title at Chmura?

13 A. Right now he is the director of sales and  
14 education specialist.

15 Q. And you probably have already answered  
16 this, but does Chmura currently have a sales manager?

17 A. That's Dr. Shelly. He is an interim. We  
18 are interviewing.

19 Q. Does he have any background in sales?

20 A. He was an entrepreneur for a couple years,  
21 so, yeah, he had to survive.

22 Q. Does he have any sales management  
23 experience?

24 A. He is getting that now.

25 Q. I want to show you what's been marked as

1 Defendant's Exhibit, I believe it is, V.

2 MS. COOPER: I am going to email Exhibit V  
3 to you, Kelli. I'll represent that it's the Responses  
4 to the Interrogatories. I did not have the  
5 verification page attached to the original version that  
6 I sent to you, Kelli, so I am going to send it with the  
7 verification sheet attached.

8 - - - - -

9 (Thereupon, Previously Marked  
10 Deposition Exhibit V, With the  
11 Verification Page Now Attached, was  
12 shown to the witness.)

13 - - - - -

14 Q. I am showing you what's been marked as  
15 Defendant's Exhibit V, and I will hand over control.

16 A. (Reviewing.)

17 Q. Have you seen this document before, Ms.  
18 Peterson?

19 A. Yes, ma'am.

20 Q. Did you have, or did you assist in the  
21 preparation of the responses to these interrogatories?

22 A. Yes, ma'am.

23 Q. If you can go to the very last page, and I  
24 can scroll down there. (Indicating). Is this  
25 Dr. Chmura's signature?

1 A. It is.

2 Q. I want to direct your attention to Number  
3 17. If you just read through that and then the  
4 substance of the response as well.

5 A. (Reviewing.)

6 Q. Have you had a chance to review it?

7 A. Yes.

8 Q. I just want to look at Number 2 for a  
9 moment here, the company's position that Mr. Lombardo,  
10 quote, regularly exercised significant discretion when  
11 performing his job duties.

12 Can you describe for me what your  
13 understanding of his discretion is?

14 A. He was allowed the opportunity to prospect  
15 in the whole United States in the manner that met his  
16 goals, his percentage goals. Nobody prospected for  
17 him. He managed the prospecting prospects.

18 Q. Okay. Any other discretion?

19 A. Any other discretion?

20 Q. Yes.

21 A. He had a lot of liberty in choosing  
22 conferences to attend. He was, basically, a product  
23 development adviser because he was battle tested and  
24 knew what the clients needed more than we did.

25 Q. Anything else?

1           A.       I mean, we can move on.

2           Q.       Well, I am just asking is that all the  
3       discretion -- are those all the categories of  
4       discretion that you believe Mr. Lombardo regularly  
5       exercised?

6           A.       I agree with everything in Paragraph 2.

7           Q.       And Paragraph 2 -- well, let's see, it  
8       says, "offering substantial discounts to customers."  
9       So is that another area where he exercised significant  
10      discretion, according to you?

11          A.       Yes.

12          Q.       So going to the first category of  
13      discretion you mentioned was prospecting the whole  
14      United States, correct?

15          A.       Correct.

16          Q.       Did any account -- let me ask this. Did he  
17      have discretion to prospect the whole U.S. throughout  
18      his entire time at Chmura?

19          A.       No.

20          Q.       When did that change? Or let me rephrase.  
21      How did it start? What was his discretion, and then,  
22      how did it change?

23          A.       As the business grew, the plan was always  
24      to add additional sales -- account managers to manage  
25      sales. So as the business --

1 Q. So at the -- I'm sorry. Go ahead.

2 A. From 2015 until 2019, markets changed, so  
3 did territory.

4 Q. So early on in his tenure with Chmura, he  
5 prospected the whole U.S.; is that correct?

6 A. As I previously stated, yes.

7 Q. And then as time went on, was his territory  
8 limited?

9 A. It was changed.

10 Q. Who made that change?

11 A. I'm sorry? Who made the change?

12 Q. Yes.

13 A. It was SEA Group.

14 Q. And Mr. Lombardo would have been informed  
15 of this new territory; is that right?

16 A. Yeah.

17 Q. I think we already talked about choosing  
18 conferences, which is the second area of discretion on  
19 your list, but do you have any specific recollection of  
20 conferences Mr. Lombardo recommended Chmura attend?

21 A. Texas Economic Development Conference was  
22 his favorite. He had a lot of clients in Texas.

23 Q. Was he the first account manager to attend  
24 the Texas Economic Development Conference?

25 A. Yes.

1           Q.     Do you know how he learned about that  
2     conference?

3           A.     Through his clients.

4           Q.     Prior to -- well, let me ask this, was he  
5     allowed to attend that conference?

6           A.     Yes.

7           Q.     Was there any discussion prior to his  
8     attendance -- let me rephrase that.

9                     Was there any discussion regarding whether  
10    a representative of Chmura should attend that  
11    conference?

12                    MS. SIEGMUND: Object to the form of the  
13    question. You can answer.

14           A.     Rick came to us and said, I am going to  
15    this conference. And we said, great, go bring them in.

16           Q.     Did Mr. Lombardo ask permission to attend  
17    that conference?

18           A.     Well, he was an employee.

19           Q.     So what does that mean?

20           A.     There is a chain of command. You go  
21    through that when you are spending company's money.

22           Q.     So he went up the chain of command before  
23    attending the conference?

24           A.     No, he let us know he was attending it and  
25    we thought it was great.

1 Q. So when you say we, who is "we"?

2 A. SEA Group.

3 Q. So the SEA Group approved him attending  
4 that conference?

5 A. SEA Group was excited about it, yeah.

6 Q. If SEA Group hadn't been excited about it,  
7 would he still be permitted to go?

8 MS. SIEGMUND: Object to the form of the  
9 question. You can answer.

10 A. So we are a consensus based organization  
11 and, ultimately, if Rick wanted to go to that  
12 conference, I would have been the voice of the business  
13 reasons behind that and he would have gone and SEA  
14 Group would have been fine with that.

15 Q. Okay. Was there ever a time Mr. Lombardo  
16 asked to go to a conference, to your recollection, that  
17 he was denied permission to attend?

18 A. In 2018, we did the most conferences we had  
19 ever done, and we had to scale back in 2019 due to the  
20 fact we had added 18 employees in 2018. So we had to  
21 make budget decisions and cut back on conferences.  
22 Mr. Lombardo was not given permission to do that.

23 Q. So Mr. Lombardo did ask to attend certain  
24 conferences, at least in 2019, where he was not given  
25 permission to attend; is that correct?

1           A.       Where no one was given permission to  
2 attend, that's correct, not just Mr. Lombardo.

3           Q.       Now, you said that he also exercised  
4 discretion with respect to product development, being a  
5 product development adviser. Can you explain that a  
6 little bit more?

7           A.       Sure. In July of 2019, we actually brought  
8 on a product manager. Prior to that, we were very  
9 dependent on the account managers to bring back  
10 innovative ideas from the field.

11          Q.       What was the product manager's main, or  
12 primary responsibility as of 2019 going forward?

13          A.       Run the roadmap. Build new cases and all  
14 the things they never had anybody to do for us before,  
15 but you'd have to talk to John about that, John Chmura.

16          Q.       So prior to Chmura retaining or hiring a  
17 product manager, what specifically did Mr. Lombardo do  
18 to assist with product development?

19          A.       He often made ethic -- you know, there is  
20 300 logs of him asking for GDP, for example. He worked  
21 closely with I.T. to set the priorities of the roadmap.

22          Q.       When you say 300 logs, what do you mean  
23 by 300 logs?

24          A.       Those are requests that are logged on  
25 Onstage.

1 Q. Was GDP ever developed by Chmura?

2 A. Yes.

3 Q. When was it developed?

4 A. See, I can't remember that date.

5 Q. Has GDP -- sorry, had GDP been pushed to  
6 market?

7 A. It's commercially available in JobsEQ.

8 Q. And Mr. Lombardo had asked 300 times prior  
9 to it being pushed commercially; is that right?

10 A. No, that's just a number of times that he  
11 recorded that we needed it, and a lot of people needed  
12 it. So we were just playing catch-up, actually, with  
13 GDP. It was a lot to bring that particular analytics  
14 to the tool.

15 Q. So what recording? You said he would  
16 record it. What recordings was he doing?

17 A. I am sure that's a combination of  
18 Salesforce, roadmap, postings, Onstage, sales meetings.

19 Q. Was GDP Mr. Lombardo's independent idea?

20 MS. SIEGMUND: Object to the form of the  
21 question. You can answer.

22 A. Mr. Lombardo is not an economist, nor is he  
23 an I.T. person. The answer is, no.

24 Q. Looking back at this Exhibit V, as in  
25 Victor, Number 2, I want to turn to talking about where

1 it says, 'Regularly exercised significant discretion by  
2 offering substantial discounts to customers.' Do you  
3 see that?

4 A. Yes, ma'am.

5 Q. What does that mean?

6 A. So rick is the one that developed the  
7 sublicense model.

8 Q. What is the sublicense model?

9 A. He was able to understand the business and  
10 value proposition of aligning multiple clients under  
11 one contract.

12 Q. Had that ever been done before Mr. Lombardo  
13 started at the company?

14 A. No, that was created by Rick -- sorry, Mr.  
15 Lombardo.

16 Q. Can you explain what you mean by aligning  
17 multiple -- I apologize, I am going to ask you to say  
18 it again. Sorry, let me rephrase.

19 The sublicense model you are talking about,  
20 can you explain how the pricing would work on that?

21 A. 50% discount if you are a sublicensee.

22 Q. What is a sublicensee?

23 A. someone that has come under a master  
24 license or a parent.

25 Q. Would these, the licensee and sublicensee

1 be related entities?

2 A. There is a value proposition for them to be  
3 brought together.

4 Q. Was the pricing for this model set before  
5 Mr. Lombardo started at Chmura?

6 A. No.

7 Q. Chmura has what are called pricing  
8 matrixes, correct?

9 A. Correct.

10 Q. How are pricing matrixes developed?

11 A. The pricing committee sit down and do --

12 Q. Who's on the -- sorry.

13 A. -- do a lot of math analysis of  
14 populations, analysis of demographics, competitive  
15 analysis. And the pricing committee largely is driven  
16 by Greg Chmura, develop the matrices with input from  
17 the account managers, of course.

18 Q. Who sits on the pricing committee?

19 A. Greg Chmura, Sharon Simmons, Leslie  
20 Peterson.

21 Q. How many -- let me rephrase that.

22 When was the first pricing matrix put out  
23 by Chmura?

24 A. I don't remember.

25 Q. Would it have been before Mr. Lombardo

1 started with the company?

2 A. No, no.

3 Q. When Mr. Lombardo started, then, how was  
4 Mr. Lombardo supposed to know how supposed to price the  
5 product?

6 A. We just had two price points based on  
7 population, 8995 \* and 9995.

8 Q. How many pricing matrices since the  
9 beginning -- or let me ask this: Are they numbered, the  
10 pricing matrices, if they change?

11 A. Of course.

12 Q. What number is chmura up to on their  
13 pricing matrix?

14 A. You know, I think it is around 24, 25.

15 Q. And each different pricing matrix would  
16 have a change in price on it, correct?

17 A. There are some things would have changed.

18 Q. Okay. What other things could change on a  
19 pricing matrix?

20 A. I think the first or second iteration we  
21 added 75-mile radius. There is an MSA version, there  
22 is a county version, there as regional version, there  
23 is an opportunity version. Businesses evolve over  
24 time.

25 Q. Is there one matrix used in any given point

1 in time or -- let me re-ask that.

2 Is there one matrix used at any point in  
3 time?

4 A. I don't understand that question. Sorry.

5 Q. That's okay. I will rephrase it.

6 So you have approximately 24 pricing  
7 matrices currently. Can an account manager price based  
8 on any one of those, or only based on the most current  
9 pricing matrix?

10 A. The most current, but that's not to say  
11 that a deal will come in that gets priced based on a  
12 previous one.

13 Q. Is that because that the deal could already  
14 have gone out before -- be quoted and gone out before  
15 the new pricing matrix went into effect?

16 A. Yes.

17 Q. I am going to show you what's been  
18 marked -- actually two documents, what's been marked  
19 Exhibit AA. We will start with A A.

20 - - - - -

21 (Previously marked Deposition Exhibit  
22 AA, was shown to the witness.)

23 - - - - -

24 A. (Reviewing.)

25 Q. Do you recognize this document? I will

1 take let you look at it.

2 A. I recognize it, but I can't read it. It is  
3 too small.

4 Q. Okay. (Indicating). Is that better?

5 A. Yes.

6 Q. Do you know what this is?

7 A. That's a typical pricing matrix. I don't  
8 know which version it is.

9 Q. You already answered my question.

10 Okay. In using this pricing matrix as an  
11 example, it contains -- actually, if you could walk me  
12 through it a little bit. It has, Post Secondary, Not  
13 EDO at the very top. What does that refer to?

14 A. If it is a post secondary, it is education  
15 and not an economic developments organizations.

16 Q. And so would you look at that top line  
17 where it says, ENR equals less than 5000 -- 5 to  
18 10,000, 10 to 20,000, 20,000 and up, are those the  
19 columns you would look down to price for post  
20 secondary?

21 A. You are asking me to look at the five 5K  
22 columns, or asking me --

23 Q. How would I -- I am going to ask a more  
24 general question. I think it would be easier than me  
25 trying to guess.

1 Walk me through using this pricing matrix.

2 If I were am account manager working for Chmura, how  
3 would I use this pricing matrix?

4 A. Well, for one thing, I would have rows and  
5 columns in there so I know which row I'm on, and these  
6 -- I guess this is scanned. So the biggest driver in a  
7 pricing matrix in an organization is price and  
8 population per capita, and this would spell it out into  
9 easy to use, user type.

10 Q. And what are the user types on, if you can  
11 point me to the user type on this particular pricing  
12 matrix.

13 A. Well, you can have, say, economic  
14 development orgainizations, you can have private  
15 consultants, you can have University, economic  
16 development organizations, utility companies. And that  
17 last Column is Rick Lombardo's column.

18 A. He is the one that -- was strategic enough  
19 to go after the small counties that our competition was  
20 ignoring.

21 Q. And then tell me how to use this. If I  
22 were pricing, let's take an example -- if I were  
23 pricing to a utility company, how would I know what to  
24 charge for a new contract for JobsEQ?

25 A. So you work with the primary region and

1 then you use the factors that are laid out under  
2 utilities.

3 Q. And what are those?

4 A. They may just want -- they might want zip  
5 code level data, they might want to add additional  
6 states, they might want to add additional counties,  
7 they might want the whole nation. They can add  
8 additional seats.

9 Q. So let's say I was the utility company or  
10 i'm selling to the utility company that wants just  
11 their region.

12 A. What do you mean by region? Region is  
13 anything lower than a state.

14 Q. Okay. Well, I am just trying to understand  
15 how to use this, that's all. I am trying to understand  
16 from the account manager perspective how would I go  
17 about pricing. And I you can give me any example you  
18 want to give me, but if you can show me how to use this  
19 to price a particular product, how would I go about  
20 doing that?

21 A. So let's say you are Scott County Virginia and  
22 your population is less than 50,000 and you want zip  
23 code level data for Scott County, then you are going to  
24 have a price that the population is not going to  
25 support that price, but it is under 50k population, so

1 it is \$5,000.

2 Q. Okay. Now, underneath the chart, there is  
3 a section called, Discounting Tools, "that discounts  
4 cannot be combined", do you see that?

5 A. Yes, ma'am.

6 Q. Can you explain to me what that is?

7 A. It's multi-year discount that can be either  
8 two years -- if it's two years, 5% off of each year.  
9 It can be a three year which gets you 7% off of each  
10 year.

11 Q. And then number two under Discounting Tools  
12 says, can take up to 10% off the list price, but the  
13 price never drops lower than 5,000; is that correct?

14 A. Yes, that's driven by that single counties  
15 rate.

16 Q. And the list price is what's in the chart  
17 above; is that correct?

18 A. Yes.

19 Q. And then there is a sublicense Number 3,  
20 that says 20% off the price of that sublicense had the  
21 sublicensee purchased the package on their own. Parent  
22 license is undiscounted and is defined as the highest  
23 priced individual package. All sublicense's must sign  
24 up at the original point of purchase." Is that the  
25 sublicense model you were talking about earlier?

1           A.       That is the sublicense model that I  
2       believed -- I mean, I haven't looked at this in years.  
3       I don't pay attention to this. My understanding of it,  
4       it was a 50% discount, so -- I may be wrong.

5           Q.       But that's the model you were referring  
6       to -- regardless of percentage, that was the model,  
7       correct?

8           A.       Yes.

9           Q.       Outside of these discounts -- well, let me  
10      ask, how could account managers use these discounting  
11      tools?

12          A.       So they would start with list, which is  
13      where they want to get because they get the biggest  
14      commissions there, and then in the process of  
15      discovery, they discover what their price point is.  
16      But based on price point and based on region and based  
17      on user stype, you begin to discount. You might start  
18      with 1%, you might start with 2%. And Rick was very  
19      good at this. He was very good at helping the company  
20      maximize that opportunity.

21          Q.       When you say, the company, do you mean  
22      Chmura or -- who are you referring to as the company?

23          A.       Chmura.

24          Q.       To your knowledge, did Mr. Lombardo seek  
25      approval prior to offering a discount?

1           A.       I mean, he often came to me with a reason  
2       why we had to go with a certain product, and I always  
3       said, how do you recommends, Rick? And then that's  
4       what we would go with.

5           Q.       But he would come to you before offering it  
6       to the potential client or clients, right?

7                   MS. SIEGMUND: Object to the form of the  
8       question. You can answer.

9           A.       He had the freedom to take discountns  
10       without coming to me.

11          Q.       And those are the discounts that are set  
12       out on the pricing matrix; is that correct?

13          A.       On this particular one, yes, but I don't  
14       know which version this is. I know they have up to 30%  
15       discretion now.

16          Q.       And would that 30% be found on a pricing  
17       matrix?

18          A.       Yes.

19          Q.       I am going to show you what's been marked  
20       as Exhibit AB, probably too small. I will make it  
21       bigger.

22                               -   -   -   -   -

23                               (Previously marked Deposition Exhibit  
24                               AB, was shown to the witness.)

25                               -   -   -   -   -

1 Q. Is this also a pricing matrix?

2 A. Just a version of it.

3 Q. Do you know which version this is, which  
4 number?

5 A. I do not, no.

6 Q. And I assume this works in the same manner  
7 as the last pricing matrix that we looked at?

8 A. Yes.

9 Q. And, again, you don't recall which version  
10 this pricing matrix that's in front of you now, Exhibit  
11 AB, is; is that correct?

12 A. I do not know which version this is.

13 Q. If an account manager wanted to offer a  
14 discount, and maybe I already asked this, so forgive  
15 me. If an account manager wanted to offer a discount  
16 beyond what's listed under these Discounting Tools in  
17 either Exhibit AB or AA, or whatever the current matrix  
18 as it exist, would they have to seek approval from  
19 someone?

20 A. Well, two eyes are always better than one.

21 Q. So the answer is, yes, they would have to  
22 seek approval?

23 A. They would want to.

24 Q. Well, would they have to? Were they  
25 directed to?

1 A. Yes.

2 Q. And would that have also applied to Mr.  
3 Lombardo when he was employed?

4 A. Yes.

5 Q. Going back to you testifying that Mr.  
6 Lombardo developed a sublicense model, do you remember  
7 when he developed that?

8 A. 2015.

9 Q. And did you have personal discussions with  
10 him regarding that model?

11 A. Yes.

12 Q. And do you recall the substance of those  
13 communications?

14 A. The substance of them?

15 Q. Yes.

16 A. Yes. It was brilliant.

17 Q. What was the actual substance of the  
18 conversation you had with him regarding the sublicense  
19 model?

20 A. He began to see in Salesforce how to set up  
21 a parent account, and then how to set up each child and  
22 he bridged that model into the industry that he was --  
23 industries that he was prospecting to and was able to  
24 act as an adviser, a trusted adviser to his client  
25 about how they can come together and work together and

1 at a better price point than if they were individually  
2 licensed.

3 Q. Who made the determination that 50% would  
4 be the proper discount?

5 A. Mr. Lombardo.

6 Q. Did someone have to approve that discount?

7 A. No, It became a new model, a sublicense  
8 mole, it is on the pricings matrix.

9 Q. Did Mr. Lombardo put it on the pricing  
10 matrix?

11 A. Oh, no, I am sure that was Greg, Greg  
12 Chmura.

13 Q. You said earlier there was a pricing  
14 committee? Mr. Lombardo was not on that pricing  
15 committee, correct?

16 A. He was an adviser to that committee.

17 Q. Did he sit on the committee?

18 A. They brought him in often, yeah, set up  
19 a --

20 Q. Was Mr. Lombardo a named member of that  
21 committee?

22 A. No.

23 Q. And I apologize, do you recall when? I  
24 think I already asked this, but do you recall  
25 approximately when Chmura first introduced the pricing

1 matrix?

2 A. No, I don't.

3 Q. I am going to show you what has been marked  
4 as Defendant's Exhibit N, and I think we already went  
5 through this the other day, but I just want to take one  
6 more look at it here.

7 - - - - -

8 (Previously marked Deposition Exhibit  
9 N, was shown to the witness.)

10 - - - - -

11 Q. Do you recognize this document?

12 A. Yes, ma'am.

13 Q. Is this -- it is an email from you to Mr.  
14 Lombardo, Mr. Steele, Ms. Ludvik Mr. Grebenc?

15 A. And Mr. Cox, correct. Yes, we talked about  
16 it last week.

17 Q. Okay. I thought we had, but that was last  
18 week, so forgive me. My brain is tired. But as sales  
19 matrix -- your email here, you drafted this email,  
20 correct?

21 A. Yes.

22 Q. And it says, "discounts beyond those  
23 documented in the sales matrix pricing sheet need to be  
24 individually approved by me," correct?

25 A. Yes.

1           Q.     So at least as of 2017, there was a sales  
2     matrix pricings sheet, correct?

3           Q.     Do you recall if the first pricing matrix  
4     was in 2016?

5           A.     I don't want to commit to that because I  
6     don't recall.

7           Q.     Was the sublicensing model we have been  
8     talking about on the first pricing matrix?

9           A.     Yes.

10          Q.     And Mr. Lombardo, according to you,  
11     developed that in 2015, correct?

12          A.     Correct.

13          Q.     So is it possible that the first pricing  
14     matrix came out in 2015?

15          A.     Not going to commit to that. I don't know.

16          Q.     Do you know who is responsible for  
17     preparing the pricing matrix?

18          A.     Greg Chmura.

19          Q.     I am going to show you what's been marked  
20     Defendant's Exhibit S, and full-time to go ahead and  
21     look at this.

22                                 -   -   -   -   -

23                                 (Thereupon, Deposition Exhibit S, Copy  
24                                 of     , was marked for purposes of  
25                                 identification.)

1 - - - - -

2 A. (Reviewing.)

3 Q. Ready?

4 A. Yes.

5 Q. Do you recognize this document?

6 A. I know what it is. A disappointment.

7 Q. Well, what is it? Other than a  
8 disappointment, your words, not mine, what is it?

9 A. It's standard operating procedures for the  
10 sales team --

11 Q. And that's --

12 A. -- for the technology department.

13 Q. Sorry. And this was dated April 5, 2019,  
14 correct?

15 A. Yes.

16 Q. To your knowledge, were there standard  
17 operating procedures that predated the april 5, 2019  
18 version?

19 A. Yes, 2017.

20 Q. Was that when they were implemented?

21 A. Yes.

22 Q. Do you know who prepared the April 5, 2019  
23 version?

24 A. Mr. Auerbach.

25 Q. When did Mr. Auerbach begin working for

1 Chmura?

2 A. In April 2019, and that was his first  
3 assignment.

4 Q. Was this version of the standard operating  
5 procedures implemented?

6 A. I don't think so. I don't recognize that  
7 date that was April whatever it was. This appears to  
8 me to be more in line with what we adopted in 2017. So  
9 I don't know why there is a date change, but this is  
10 not what I thought you were going to show me.

11 Q. Let me show you another document and we can  
12 come back to this one. I am going to show you what's  
13 been marked as an exhibit, I think this might help.  
14 Exhibit T. It has an email in the front, but if you  
15 scroll down, and I will let you take a look at it. You  
16 will see one, a standard operating procedures dated  
17 July 10, 2019. This may be the one you are referring  
18 to.

19 - - - - -  
20 (Previously marked Deposition Exhibit  
21 T, was shown to the witness.)

22 - - - - -

23 A. Okay.

24 Q. I will have you take look at that at your  
25 leisure.

1 A. (Reviewing.)

2 MS. SIEGMUND: We are ready.

3 Q. Do you recognize this document?

4 A. Yes.

5 Q. What is this?

6 A. It's the latest version of the standard  
7 operating procedures.

8 Q. And was this version adopted by --  
9 implemented by Chmura?

10 A. I don't know. All I heard is complaints  
11 about it, so I guess it was.

12 Q. And do you know who prepared this version?

13 A. Mr. Auerbach.

14 Q. And the exhibit S we were just looking at,  
15 and you have control, so you can scroll back to it if  
16 you want to look at it. Exhibits S was not prepared by  
17 Mr. Auerbach; is that correct?

18 A. No.

19 Q. And this would be --

20 A. I don't know why it has that date, but no.

21 Q. So Exhibit S looks more like the original  
22 version of the standard operating procedures; is that  
23 right?

24 A. I mean, I can't respond by just giving you  
25 a yes based on looking at the table of contents.

1 Q. Would Mr. Lombardo -- let me rephrase that.

2 If you look at Exhibit S for a moment,  
3 let's switch back to Exhibit S.

4 A. (Indicating).

5 Q. These standard operating procedures, they  
6 govern the sales team, correct?

7 A. They govern the processes.

8 Q. And what type of processes are set forth in  
9 the standard operating procedures of Exhibit S?

10 A. The processes are what make us productive.  
11 So the processes are there to reduce waste, increase  
12 productivity, reduce transaction costs.

13 Q. And Mr. Lombardo would have been expected  
14 to follow these standard operating procedures, correct?

15 A. Correct.

16 Q. And this one is dated April 5, 2019. It  
17 has details surrounding a variety of different items,  
18 including -- well, why don't you tell me. Does this --  
19 what does this standard operating procedures encompass?

20 A. So are we on Exhibit S or T?

21 Q. Let's stick with S for now. We will stick  
22 with that.

23 A. What's the date on S? I am sorry. Is it  
24 April? Yes, it is.

25 Q. Yes, it is April 5, 2019.

1 A. Okay. And the question is what do they do?

2 Q. Yes.

3 A. They represent and reflect the health of  
4 the organization. And when I say that, I mean, sales  
5 and client, marketing, finance and the clients. So  
6 those work together under the standard operating  
7 procedures to reduce waste in the system, to allow for  
8 a spirit of continuous improvement and to reflect the  
9 transaction cost from one side of the house to the  
10 other in terms of the dimensions of change.

11 Does that help?

12 Q. It does, yes. If you would turn to Page  
13 16 -- it's actually Bates labeled -- 16 of the  
14 document, but Bates labeled Chmura 0040753. And at the  
15 very top is Section 6, Price Negotiations.

16 A. (Indicating).

17 Q. I will let you take a look at this section.

18 A. (Reviewing.)

19 Q. And we'll just stick on this page for a  
20 moment.

21 A. Okay.

22 Q. My first question is, what are contingency  
23 responsible parties?

24 A. Well, contingency is plan B.

25 Q. So what does contingency responsible

1 parties mean in this context?

2 A. Subject matter expert.

3 Q. And what subject matter were these  
4 responsible parties experts in?

5 A. What subject matter?

6 Q. Yes.

7 A. Well, I would be the subject matter expert  
8 for sales, and Dr. Chmura would be the finance subject  
9 matter expert.

10 Q. And this page is labeled, price  
11 negotiations. It sets forth procedures with respect to  
12 price negotiations, correct?

13 A. Not just price, but everything about it.

14 Q. What do you mean by that?

15 A. Pricing matrix, pricing exceptions,  
16 additional sales.

17 Q. And mr. Lombardo would have been -- let me  
18 rephrase.

19 The account managers would have been  
20 required to follow the standard operating procedures  
21 with respect to price negotiations, correct?

22 A. Correct.

23 Q. And Mr. Lombardo also would have been  
24 required to follow these standard operating procedures  
25 with respect to price negotiations, correct?

1           A.       So this is a perfect world, and we don't  
2     live in a perfect world, so I can't make that -- I  
3     can't say yes to that statement because you are asking  
4     from paper, but then when it comes to reality, it often  
5     changes.

6           Q.       Was Mr. Lombardo required to follow the  
7     standard operating procedures set forth in Section 6?

8           A.       Yes.

9           Q.       I want to turn to the next page,  
10    conferences and travel.

11          A.       (Reviewing.)

12          Q.       If you go up to just under Procedures, let  
13    me rephrase.

14                    These procedures, pertain to standard  
15    operating procedures regarding conferences and travel  
16    at Chmura, right?

17          A.       Yes.

18          Q.       And under Procedures, it has, Responsible  
19    Party and Action Step, Conference Selection, do you see  
20    that?

21          A.       Yes.

22          Q.       And the Event Group comprised of CC. Is CC  
23    Dr. Chmura?

24          A.       Yes.

25          Q.       And LP is you, correct?

1 A. Yes.

2 Q. And BK stands for bookkeeper?

3 A. Yes.

4 Q. And SM is for sales manager?

5 A. Yes.

6 Q. And is SS Ms. Simmons?

7 A. Yes.

8 Q. And KQ would be Mr. West, correct?

9 A. Correct.

10 Q. And so Event Group under the standard  
11 operating procedures was tasked with researching and  
12 selecting conferences for Chmura employees to attend,  
13 correct?

14 A. Correct.

15 Q. Was Mr. Lombardo part of that Event Group?

16 A. No. He invited himself out of it because  
17 he had unethical travel behaviors. So he was no longer  
18 invited. I think it was 2018 or is this the 2019  
19 version? Yes, he was not in it. This would be -- most  
20 of these exists because of Mr. Lombardo.

21 Q. So your testimony is that the standard  
22 operating procedures exists because of Mr. Lombardo?

23 MS. SIEGMUND: Object to the form of the  
24 question.

25 A. Some of the things that are in the standard

1 operating procedures under conference travel are as a  
2 result of mistakes by Mr. Lombardo.

3 Q. Well, we weren't talking about the travel.  
4 We were just talking about the conference selection.  
5 Mr. Lombardo was not part of the event group selecting  
6 conferences, at least as of April 2019, correct?

7 A. Correct.

8 Q. All right. I want to turn to Exhibit T and  
9 move away from Exhibit S. I think you earlier testified  
10 that Mr. Auerbach prepared this version. Tell me  
11 again, are you aware whether this version was  
12 implemented, Exhibit T?

13 A. This must have been implemented because I  
14 heard complaints about it, particularly from finance.

15 Q. Was there any other version after Exhibit  
16 T's date, whether it was July -- i have to scroll back  
17 up to know for sure -- July 10, 2019 --

18 A. Well --

19 Q. Let me finish my question, only so we have  
20 a clear record, please. Was there any other version  
21 after this July 10, 2019 version that would have been  
22 implemented at the time of Mr. Lombardo's employment?

23 A. I'm not aware.

24 Q. What is it, or what complaints have you  
25 heard about this particular version?

1           A.       So there is a lot of concern around how  
2       invoices get generated from Salesforce information to  
3       the finance managers. So sloppy Best Practices are  
4       existing, such as including an upsell, which is a  
5       separate transaction following a JobsEQ license,  
6       bundling those into one price and then you go into the  
7       record, into Saas optics, and it shows up as two  
8       products with one price, for example.

9           Q.       That sounds confusing a little bit.

10                  Okay, I want to turn to Mr. Lombardo's  
11       termination. You testified earlier that back in  
12       March -- I am going to stop sharing, so I can actually  
13       see the screen. You testified back in March that you  
14       were prepared to fire Mr. Lombardo, correct?

15           A.       Yes.

16           Q.       And then you decided against doing that,  
17       right?

18           A.       Yes.

19           Q.       What led to Mr. Lombardo's termination --  
20       first of all, do you recall what date Mr. Lombardo was  
21       terminated?

22           A.       October 30 or 31st, the last day of  
23       October in 2017.

24           Q.       Do you recall what --

25           A.       Let me correct that. 2019.

1 Q. Do you recall what led to his termination?

2 A. Yes.

3 Q. And what was that?

4 A. So the information that I have on that  
5 largely comes from Mr. Auerbach.

6 Q. Okay. Were you part of the decision to  
7 terminate Mr. Lombardo?

8 A. I was.

9 Q. Was there a primary decision maker who  
10 decided to terminate him?

11 A. SEA Group decided to terminate him, and I  
12 was the one that, I think I stated before, I was still  
13 not ready to fire Rick. I was the last holdout.

14 Q. And what --

15 A. And then Greg --

16 Q. So go ahead and finish.

17 A. Then Greg was -- I am not in Cleveland, so  
18 I don't see the drama that's going on. Greg felt very  
19 strongly that the sales department had been through so  
20 much with Mr. Lombardo, so much emotion and so much  
21 drama and so much foul language and unnecessary  
22 attempts to take management down, and Mr. Auerbach was  
23 part of that drama.

24 Q. And how was he part of that problem?

25 A. I would describe him as a mark.

1           Q.     Okay. Can you think of a specific example,  
2 just so I understand?

3           A.     Yes. I mean he is middle managements,  
4 rights? Middle managements is supposed to be the  
5 champion between account manager and management, a job  
6 they are supposed to play. And that job was never  
7 clear to me, maybe because I wasn't in Cleveland, but  
8 Mr. Auerbach seemed to play both sides against the  
9 middle.

10          Q.     Prior to Mr. Lombardo's termination, did  
11 you have any internal discussions regarding his  
12 termination?

13          A.     Yes, we did.

14          Q.     What was the substance of those  
15 discussions?

16          A.     Protecting the sales team that was in place  
17 was the substance of those discussions.

18          Q.     Can you explain that a little bit further?

19          A.     So the sales team is very young and Mr.  
20 Lombardo would take them one by one to lunch and feed  
21 them with reasons to not want to respect management.

22          Q.     Do you have any personal knowledge of the  
23 conversations that Mr. Lombardo had with those account  
24 managers?

25          A.     I have information from one of the account

1 managers that I'm drawing from largely.

2 Q. And which account manager is that?

3 A. Stephanie Wiley.

4 Q. Did Mr. Lombardo ever take Stephanie Wiley  
5 to lunch, to your knowledge?

6 A. Yes.

7 Q. Do you know if he was directed to take the  
8 account managers to lunch?

9 A. No, I got a call from Eli and he said is it  
10 okay if Rick takes Stephanie to lunch today, and I said  
11 I would prefer another account manager be with her,  
12 especially a female.

13 Q. Okay.

14 A. Just coming out of the me too movement, so  
15 I i did not want to put her in that situation. And  
16 they went by themselves.

17 Q. Did Mr. Lombardo have a history of any  
18 inappropriate contact?

19 A. No, that's just the way that I was taught  
20 at Eastman Kodak, you never put yourself in a situation  
21 to be one-on-one, female to male.

22 Q. So you were sensitive to what was going on  
23 in current events; is that fair?

24 A. Yes.

25 Q. Who did you have discussions with

1 regarding -- let me put a time frame on this. In  
2 October, who were discussing Mr. Lombardo's employment  
3 with, outside of counsel, if you had any conversations  
4 with counsel?

5 A. SEA Group was meeting on it.

6 Q. And tell me, again, who is in SEA Group?

7 A. You want names or the number?

8 Q. Names, please.

9 A. Chris Chmura, Leslie Peterson, John Chmura,  
10 Greg Chmura, Sharon Simmons, Xiaobing Shuai.

11 Q. At the time Mr. Lombardo was terminated,  
12 Chmura had an H.R. director, correct?

13 A. Yes.

14 Q. Was that Aisha Ortiz?

15 A. Ortez. Yeah, Ortez.

16 Q. What was her role with respect to Mr.  
17 Lombardo's termination?

18 A. She was an adviser to SEA group.

19 Q. And what advice did she provide?

20 A. We want to be able to separate from Mr.  
21 Lombardo with the least amount of damage.

22 Q. Okay. And how did Chmura propose going  
23 about that?

24 A. Didn't propose. It came from Mr. Auerbach.

25 Q. What Did Mr. Auerbach propose?

1 A. He proposed a buyout.

2 Q. And did the SEA Group take at that advice?

3 MS. SIEGMUND: Object to the form of the  
4 question. You can answer.

5 A. We thought about it.

6 Q. And what did you ultimately decide to do?

7 A. Not do that.

8 Q. And why?

9 A. We had never given a buyout to anybody we  
10 terminated, why would we do it for Mr. Lombardo?

11 Q. Was there any discussion regarding trying  
12 to get Mr. Lombardo to resign?

13 A. No.

14 Q. Were you involved in the decision to put  
15 Mr. Lombardo on unpaid leave in October of 2019?

16 A. I know about it, with a recommendation  
17 between Aisha and Operation, Sharon. I knew about it.  
18 I was aware.

19 Q. You were aware. Did you have any further  
20 involvement other than just aware of it?

21 A. No.

22 MS. COOPER: Can we take a short break ?

23 MS. SIEGMUND: Sure. Five minutes, 10  
24 minutes?

25 MS. COOPER: Five minutes is good.

1 - - - - -

2 (Short recess taken).

3 - - - - -

4 MS. COOPER: Ms. Peterson, I do not have  
5 any more questions for you. I want to thank you for  
6 your time.

7 THE WITNESS: You're welcome.

8 MS. SIEGMUND: I don't have any questions.  
9 Rough for us, please.

10 MS. COOPER: Standard transcript

11 MS. SIEGMUND: She will read.

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